10–4–00 Wednesday
Vol. 65 No. 193 Oct. 4, 2000
Pages 59105–59338

Federal Register

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WASHINGTON, DC

WHEN: October 17, 2000, at 9:00 a.m.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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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.

Rules and Regulations

Federal Register
Vol. 65, No. 193
Wednesday, October 4, 2000

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 274

[Amendment No. 390]

RIN 0584–AC44

Food Stamp Program, Regulatory Review: Electronic Benefit Transfer (EBT) Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This action provides final rulemaking for a proposed rule published May 27, 1999. It revises Food Stamp Program regulations pertaining to implementation of Electronic Benefit Transfer (EBT) systems in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) signed by the President August 22, 1996. This rule implements the EBT provisions found in Section 825 of PRWORA which are meant to encourage implementation of EBT systems to replace food stamp coupons.

DATES: This rule is effective November 3, 2000. State agencies may implement the provisions anytime after the effective date. However, EBT systems must be in place no later than October 1, 2002, unless the State is granted a waiver by the Secretary of Agriculture.

FOR FURTHER INFORMATION CONTACT: Jeffrey N. Cohen, Chief, Electronic Benefit Transfer Branch, Benefit Redemption Division, Food and Nutrition Service, USDA, room 718, 3101 Park Center Drive, Alexandria, Virginia, 22302, or telephone (703) 305–2517.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule in 7 CFR 3015, Subpart V and related Notice (48 FR 29115), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 13132, Federalism

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments and consult with them as they develop and carry out those policy actions. The Food and Nutrition Service (FNS) has considered the impact of this rule which requires mandatory implementation of Electronic Benefit Transfer (EBT) systems to deliver food stamp benefits in accordance with non-discretionary requirements set forth in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). In addition, FNS added the two discretionary cost neutrality provisions directly in response to State concerns. FNS is not aware of any case where any of these provisions would in fact preempt State law and no comments were made to that effect. Prior to drafting this final rule, we received input from State agencies at various times. Since the Food Stamp Program (FSP) is a State administered, federally funded program, our national headquarters staff and regional offices have informal and formal discussions with State and local officials on an ongoing basis regarding EBT implementation issues. This arrangement allows State agencies to provide feed back that form the basis for many discretionary decisions in this and other FSP rules. In addition, we sent representatives to regional, national, and professional conferences to discuss our issues and receive feedback on EBT implementation timeframes, cost-neutrality issues and other more general EBT concerns. Lastly, the comments on the proposed rule from State officials were carefully considered in the drafting of this final rule.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Shirley R. Watkins, Under Secretary for Food, Nutrition and Consumer Services, has certified that this rule will not have a significant economic impact on a substantial number of small entities. State and local welfare agencies will be the most affected to the extent that they administer the Food Stamp Program.

Paperwork Reduction Act

This rule does not contain additional reporting or recordkeeping requirements other than those that have been previously approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 and assigned OMB control numbers 0584–0083 and 0505–0008.

Executive Order 12988

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the **DATES** paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the Food Stamp Program (FSP), the administrative procedures are as follows: (1) For Program benefit recipients—State administrative procedures issued pursuant to 7 U.S.C. 2020(e)(11) and 7 CFR 273.15; (2) for State agencies—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 276.7 (for rules related to non-quality control (QC) liabilities) or 7 CFR Part 283 (for rules related to QC liabilities); (3) for Program retailers and wholesalers—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

Public Law 104–4

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, the Food and Nutrition Service (FNS) generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of $100 million or more in any one year. Thus this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Background

Proposed rules were published in the **Federal Register** on May 27, 1999 at 64 FR 28763 to implement the provisions of section 825 of the PRWORA (Pub. L. 104–193) which amended Section 7 of the Food Stamp Act of 1977, as amended (7 U.S.C. 2016) (the FSA). Comments on the proposed rule were solicited through July 26, 1999. This final action takes the comments received into account. Readers are referred to the proposed regulation for a more complete understanding of this final action.

Eighteen comment letters were received in response to the proposed rule. Individual comments were received from 8 State agencies. Of the remaining letters, 2 were from retailer associations, 2 were from banking associations, 2 were from Public Interest Groups, 1 was from an EBT processor, 1 was from an EBT industry trade group, 1 was from a planning company, and 1 was from an alliance of States, networks, contractors, financial institutions and retailers.

In general, the commenters supported EBT and the Department's efforts to encourage implementation. Various provisions of this rule: mandate EBT systems for food stamps; allow for implementation of off-line EBT systems; relax cost-neutrality requirements; allow collection of EBT replacement card fees from client household benefit accounts; and identify operational limitations for including client photographs on EBT cards. The specific provisions are discussed below.

Mandate EBT

The proposed rule would mandate that each State agency fully implement EBT statewide for issuance of food stamp benefits no later than October 1, 2002, unless the Secretary provided a waiver because a State agency faced unusual barriers to implementing an EBT system. Each State agency was encouraged to implement an EBT system as soon as practicable. Although a majority of the commenters supported the EBT mandate in general, several had serious concerns with this requirement.

Three comments reflected a concern that the lack of competition in the current EBT environment will impede full implementation efforts. Three commenters expressed concern that the Department's interpretation of the legislation was too stringent in requiring that State agencies be fully implemented statewide by October 1, 2002. They felt that if a State agency is actively moving toward statewide implementation by the deadline, the regulatory requirement should be satisfied. One commenter suggested allowing an extra six months for full implementation, while another suggested short-term waivers to ensure that systems will be ready for reliable operation within a few months after the October 1, 2002 date. One commenter felt that there should be a prohibition on implementations and system changes between October 1999 and the first quarter of 2000 because of Y2K considerations.

The Department was impressed by the show of concern from State agencies and other interested parties about the requirement for full implementation by October 1, 2002. However, Congress was clear in its intent that State agencies must implement EBT for food stamps statewide by the deadline of October 1, 2002, unless they receive a waiver granted by the Secretary because of unusual barriers to full implementation.

Three commenters felt that the rule should specify what will qualify as ''unusual barriers'' to implementation, and thus warrant a waiver. Without knowing what, if any, obstacles State agencies might face, the Department is not able to specify what kinds of problems would justify a waiver from the Secretary. The Department will need to evaluate any waiver requests submitted on an individual basis. However, the Department does not foresee any obstacles that cannot be overcome in order to meet the requirements that State agencies implement EBT systems statewide by October 1, 2002.

The preamble of the proposed rule also stated that any State agency not granted a waiver and not having fully implemented EBT statewide by October 1, 2002, will be out of compliance with these rules and may be subject to disallowance of administrative funds pursuant to the provisions of 7 CFR 276.4. Two commenters requested clarification with respect to penalties that would result if States had not implemented EBT by the deadline. We believe that the regulations, as cited above, provide the State agencies sufficient detail on the disallowance of administrative funds to impart the importance of complying with this requirement.

Off-Line Technology

The proposed regulation would implement the statutory amendment which removed the prohibition against State agencies implementing off-line EBT systems. A majority of the comments on this provision support the change to allow off-line systems because it provides State agencies greater flexibility to determine the kind of system suitable for their own needs. However, one commenter recommended that off-line technologies be implemented transitionally to protect existing investments by States and retailers in on-line systems. Another felt that, while off-line systems can make the integration of cash and non-cash benefits more efficient and convenient for recipients, costs must come down before the technology can be widely implemented. Another raised the concern that retailers should not have to bear the cost of the new technology. By allowing off-line system implementation, the Department is offering State agencies more flexibility but is not endorsing off-line technology over magnetic stripe on-line technology. We recognize that the cost implications for State agencies and for retailers will largely drive the degree to which this technology is adopted over time.

The proposed rule also defines an off-line EBT system as a benefit delivery system in which a benefit allotment can be stored on a card and used to purchase authorized items at a point-of-sale terminal without real-time authorization from a central processor. One commenter suggested modifying the definition of off-line systems to ''* * * a benefit delivery system in which a benefit allotment can be stored on a card or in a card access device.

* * *'' We are incorporating the language of the suggested definition into the regulation to convey that in some cases with an off-line system, benefits must be downloaded onto a card at the point-of-sale terminal or some other card access device.

Another commenter wanted us to specify that off-line systems not be permitted to retain information on recipients, including food choices, for privacy reasons. Off-line systems are held to the same privacy requirements as on-line systems as found in current Food Stamp regulations at 7 CFR 274.12(e)(1)(ix), (redesignated by this publication as 7 CFR 274.12(f)(1)(ix)). This provision states that State agencies shall ensure the privacy of household data and provide benefit and data security. Retailers, for instance, are not permitted to store any information on EBT cards or accounts, on-line or off-line. Because of the existing protections, we have not made any further changes to the rule with regard to this issue.

The rule did not propose standards specific to off-line systems but did solicit comments from the public to provide input into our decision regarding what standards we should propose in the future. One commenter disagreed with this approach and suggested that national uniform standards must be developed before off-line systems can be implemented. The Department has already tested off-line technology for EBT and sees no reason not to allow State agencies to move in this direction if they choose. However, we understand the limitations of not having standards in place and will continue to work with the State agencies and other interested parties to keep apprised of advances being made toward standards in the off-line industry as it evolves.

Cost Neutrality

This rule implements two discretionary changes (offers option of a national issuance cost cap and allows for prospective certification of EBT systems), and one non-discretionary change (removes requirement that EBT systems be cost neutral in any one year) to the EBT cost neutrality requirements of 7 CFR 274.12(c). Most of the comments that we received on the proposed rule were in response to the cost neutrality section. In general, the comments reflect that cost neutrality continues to be a source of concern and frustration for State agencies and other stakeholders, even as we strive to make the requirements less burdensome.

Three of the commenters acknowledged general support of these provisions because they offer State agencies more flexibility to determine and track cost neutrality; however, a majority of the commenters expressed the belief that the Department needs to go further to reduce the impact of cost neutrality requirements. Four commenters recommend exempting certain EBT activities and associated costs from the cost neutrality determination, such as farmers' market participation in the FSP. Similarly, two commenters complained that the cost cap does not take into consideration certain State costs which are not related to coupon issuance but are required for EBT or by FSP regulations, *e.g.,* an annual Statement of Auditing Standards (SAS) 70 audit of EBT systems. Three commenters said that FNS should take into consideration the increased costs to operate EBT and the States' limited financial resources. Four commenters mentioned that the lack of EBT competition has meant higher costs; therefore, further relaxation of cost neutrality requirements are needed. One commenter suggests that State agencies with smaller caseloads need flexibility in choosing a contractor, because it is harder for them to be cost neutral.

The Department has similar concerns about the costs related to EBT and how they impact on a State's cost neutrality. For instance, the Department has decided to exempt all SAS 70 audit costs from State agencies' cost neutrality determinations, and we will continue to examine activities and costs with an eye to whether they should be part of EBT cost neutrality consideration. However, we believe that, by implementing the changes in this rule, a majority of the concerns about the implications of Federal cost neutrality can be overcome.

Two comments specifically welcomed the non-discretionary change to remove the annual cost neutrality assessment of EBT compared to paper systems. However, one comment letter reflected some misunderstanding by questioning whether there is any change to the time periods for calculating cost neutrality under an EBT contract since there are so few billable case months in the first year or so of a first generation EBT system. With the legislative removal of the annual cost neutrality requirement, State agencies will now assess the cost neutrality of the entire contract period, not year to year. This provision should greatly reduce the likelihood that State agencies are held responsible for costs exceeding the cost cap, because they are able to spread them out over the full contract period.

The national cap is a case-month issuance amount calculated by FNS to be $2.42 for fiscal year 2000. The amount is based on nationwide State and Federal coupon issuance costs as validated by FNS. State agencies may opt for this method for determining the cost neutrality of their EBT systems rather than derive their own coupon issuance cost cap. One commenter generally supported the provision. Another commenter suggested that the national cap be lowered or eliminated if it becomes apparent that EBT contractors are tying project bids to the cap rather than competing aggressively. This also included the suggestion of not publishing the national cap for this reason. The Department does not foresee this being a problem because each State agency has its own cost constraints to doing EBT that may in fact be lower than the national cost cap. Contractors will have to be sensitive to how much the individual States can spend on an EBT system when submitting bid proposals, regardless of the national cost cap.

Only one commenter reacted specifically to the proposal on prospective certification. The commenter suggested that FNS deny prospective certification to State agencies with contracts containing troublesome provisions such as a contractor's ability to increase unit costs if caseloads fall below expectations but not reducing those unit costs in the event a recession or other event causes caseloads to rise. The Department agrees that these contract provisions can sometimes be questionable; however, the State agency would have to take such contractual impacts into account when submitting the prospective analysis for FNS approval.

Three comments requested clarification on how the proposed cost neutrality changes will impact on a re-bid contract. The Department does not foresee making any distinction between first time contracts and re-bid contracts when doing cost neutrality assessments. In both cases, the State agency will choose to either: (1) calculate their own State cost cap which is based on individual States' statewide coupon issuance costs, multiplied by the percentage of Federal financial participation, plus Federal only coupon issuance costs, and then validated by FNS; or (2) use the national cap which is calculated by FNS. The State agency then projects the costs of the EBT system for the life of the system; i.e., the contract period. If the State agency can demonstrate up front that the system will be cost neutral, no further cost assessment of the project during the contract period is necessary, unless the State agency makes significant changes to the system which increase contract or

other costs enough to warrant a reassessment.

Clarification was requested by several other commenters. One commenter wanted to know if validated cost caps would have to be recalculated. If the State agency already has a validated cost cap, it may use that cap or switch to the national cap, whichever it wants to use. Another commenter wanted to be able to exclude residual coupon costs from assessment when the State agency is operating statewide. In fact, this is already permitted. State agencies may request that residual coupon costs be taken into consideration as they are rolling out an EBT system, but there are no residual coupon costs once the EBT system is implemented statewide.

Another commenter wanted a more equitable method of determining the cost of off-line systems since off-line systems suffer under current requirements. The Department does not intend to change cost neutrality requirements to fit off-line systems. We recognize that those systems still tend to cost more than on-line systems, but this will likely change if off-line technology advances in the market place.

Two commenters specifically requested clarification of the distinction between direct and indirect costs. After review of the comments, we have determined that the level of detail on direct and indirect costs in the proposed rule, as well as much of the detail on process and procedures related to calculating cost neutrality, is more appropriately handled through guidance to the State agencies. FNS is currently developing the cost neutrality guidance for distribution to the State agencies shortly after publication of this rule. We have revised the cost neutrality section of the final regulation extensively to reflect this.

Differentiate Food Stamp Eligible Items

As discussed in the preamble of the proposed rule, PRWORA requires, to the extent practicable, the establishment of system approval standards for measures that permit a system to differentiate items of food that may be bought using food stamps from items that may not be bought using food stamps. This resulted in a report to Congress in August of 1998 explaining that we would have to require scanners at all authorized food stamp retailers to accomplish this and, while it is technically feasible, it is cost prohibitive to do so at this time. No regulatory change was proposed. We received seven comments supporting this position.

Replacement Card Fee

The proposed rule would provide State agencies with the option to collect a charge for replacement of an EBT card by reducing the monthly allotment of the household. We received five comments generally supporting this provision. Two commenters suggested that we allow collection of future months' benefits for replacement cards. The Department does not see why it should be necessary for a State agency to collect a replacement card fee from a household's future months' benefits. There is currently no prohibition against waiting until funds are available in the benefit account before collecting the fee for replacing the card.

One commenter felt that, since replacing cards is an administrative function, this should not be considered program income. All administrative functions are shared costs and, therefore, if the State agency is being reimbursed for a cost that the Department has already shared in through payment to the EBT contractor, the fee collected must be treated as program income and shared with the Department. Another commenter suggested that State agencies should offer one free replacement per year similar to the credit card industry. State agencies have the flexibility to implement a provision with this kind of leniency if they wish, but the Department will not mandate it.

One commenter had several suggestions to restrict the provision in ways to further protect food stamp households. One point was that, in order to be in compliance with the Americans with Disabilities Act of 1990, as amended (ADA), State agencies should not charge fees to clients with disabilities who frequently request replacement cards, because this is an indication that the client needs better training or help obtaining an authorized representative. It was further recommended that State agencies be required to waive the replacement fee if a client shows good cause.

The Department shares the commenter's concerns for recipients that experience difficulties keeping up with their EBT cards because of disabilities or those that can otherwise show good cause reasons for requesting a replacement card. Therefore, we strongly urge State agencies to consider the circumstances surrounding the recipients' need for a replacement card. Furthermore, we recommend that each State agency develop their own good cause policy for card replacement fees. Such policies would allow free replacement cards in instances of fires or other household emergencies, robbery or other crimes, and for recipients with disabilities that significantly impair their ability to secure the card. We have added regulatory language to emphasize these concerns.

It should be noted, however, that EBT card replacement is significantly different from replacement of coupons lost as a result of household emergencies or mail theft. When coupons are replaced, the actual benefits which were lost are replaced. When a household reports an EBT card lost or stolen, a hold is placed on the benefits remaining on that card, thereby protecting the household from unauthorized access to those benefits. When the card is replaced, the household will have access to the benefits that were on the card at the time it was reported lost or stolen.

Another suggestion was to establish a cap on the fee amount which would be announced annually and for FNS to refuse to grant training waivers (*i.e.,* allow States to mail EBT training to food stamp households rather than conduct hands-on sessions) to State agencies that charge a fee. The Department does not believe that these recommendations are necessary or required under the law. Therefore, we are not changing the regulatory language further in response to this comment. However, FNS will continue to review State agencies' plans for replacement card fee collection to ensure that households are not being charged exorbitant fees and are not being treated unfairly.

Photograph on EBT Card

The proposed regulation specifies that State agencies may require that EBT cards contain a photograph of one or more members of a household but that the State agency must establish procedures to ensure that any other appropriate member of the household or any authorized representative of the household may utilize the EBT card if a photo is used. Four commenters generally supported the provision to use a photo on the card at State agency option. One comment specifically supported the Department's concern that all eligible household members must still be able to use the card. One commenter remarked that putting a photo on the card may reduce card replacements and selling of cards to non-beneficiaries and that any State doing so would need to have uniform procedures in place as part of their EBT program.

One commenter suggested that State agencies be required to place photos on the EBT card similar to how photos

appear on credit cards so as not to make it obvious that a client is using a food stamp card. The Department does not intend to dictate how the photo should be placed on the EBT card.

Another commenter suggested that placing a photo on the card will create confusion for retailers and shift burden of policing the program to the stores. The Department has no intention of shifting the burden of monitoring the compliance of food stamp program recipients to the retail community. That is why the regulation is explicit in requiring State agencies to have a plan in place to ensure that all appropriate household members or authorized representatives can access benefits from the account as necessary. This plan might include retailer training to ensure that they understand someone other than the client pictured on the card may be entitled to use the card.

Anti-tying Restrictions

In the preamble of the proposed rule we discussed the anti-tying provision in PRWORA and the Department's response to it. To summarize, after consulting with the Federal Reserve System Board of Governors, the Department learned that anti-tying prevents the conditioning of any service on the purchase of another service or product. Since EBT is non-conditioned and, therefore, must be offered to retailers at no cost, the Federal Reserve agrees that the existing anti-tying laws are not relevant in the EBT environment. A majority of the commenters to this section agreed with the Department's position.

Two commenters did not agree and felt that USDA needs to do more to find a means to implement the intent of section 825 pertaining to anti-tying for the sake of promoting competition for Point of Sale (POS) services. They suggest that the Department use its expertise to ensure maximum competition and that perhaps prohibiting EBT contractors from offering commercial equipment in the States where they hold contracts is a cost effective and a pro-competitive approach. The Department has no evidence that this is a problem in the current EBT environment, a position which is supported by the Federal Reserve Board of Governors, as well as a majority of the commenters. However, we will continue to look at this issue to determine if further action may be necessary in the future.

System Compatibility

The preamble language in the proposed rule spoke to the sense of Congress that State agencies should operate their EBT systems in a manner that makes them compatible with one another. It further went on to say that, since current rules already require system compatibility, no regulatory change was necessary. Several commenters wanted us to interpret the term ''system compatibility'' to be synonymous with system interoperability and took this opportunity to express their support of system interoperability; *i.e.,* the ability for food stamp households in one State to use their EBT benefits in another State.

Three comments say we must achieve or require interoperability. Two other commenters want the Department to require interoperability and to specify who pays for it. One commenter supports interoperability and believes the Department should pay for it. Another three commenters merely state their support of interoperability while one other noted that without interoperability, cash-out should be allowed when recipients move from State to State. Interoperability legislation has now been passed by Congress and the Department published an interim rule on interoperability in the **Federal Register** August 15, 2000 at 65 FR 49719, entitled Food Stamp Program: EBT Systems Interoperability and Portability.

Three commenters expressed concern about transaction processing standards being inconsistent with commercial standards. The Department continues to work with State agencies, EBT processors, and other interested parties through forums like the EBT Industry Council, a subgroup of the Electronic Funds Transfer Association (EFTA), and the National Automated Clearing House Association (NACHA) to see if better standards for transaction processing can be developed. Under current regulations at 7 CFR 273.12(h), State agencies do have the option to request prior written approval from FNS to use the prevailing regional industry standards rather than the standards specified in this section. One commenter expressed concern that customer service and help line performance standards are also inconsistent with commercial standards. FNS does not prescribe standards in these areas, giving State agencies the flexibility to set their own requirements in individual contracts for EBT services.

One commenter requested FNS consider reviewing the pay-phone access issue and adjustments with an eye toward system compatibility. Another comment said that we need to ensure that other programs like the State food stamp programs can be added to existing systems in a cost effective manner. A final comment suggested that nationwide system compatibility at all levels would greatly enhance EBT systems. We appreciate these broader comments but felt they did not fit within the scope of this rule. The Department will, however, continue to look at how system compatibility can be enhanced with the ongoing evolution of EBT.

Regulation E

As stated in the preamble of the proposed regulation, Section 907 of the PRWORA amends Section 904 of the Electronic Funds Transfer Act, commonly known as Regulation E, to exempt from coverage government EBT accounts held for recipients of State-administered needs-tested assistance programs, including the FSP. Because this provision does not amend the FSA, we did not propose changes to our current regulations. We received only two comments on this issue. One commenter supported FNS's position; the other believed we must reserve further action on this issue until the effects of abrogating Reg E are clear.

Implementation

This rule is effective November 3, 2000. State agencies may implement the provisions anytime after the effective date. However, EBT systems must be in place statewide no later than October 1, 2002, unless the State is granted a waiver by the Secretary of Agriculture.

List of Subjects

7 CFR Part 272

Alaska, Civil Rights, Food Stamps, Grant Programs-social programs, Reporting and recordkeeping requirements.

7 CFR Part 274

Administrative practice and procedure, Food stamps, Fraud, Grant programs-social programs, Reporting and recordkeeping requirements, State liabilities.

Accordingly, for the reasons set forth in the preamble, 7 CFR parts 272 and 274 are amended as follows:

1. The authority citation for 7 CFR parts 272 and 274 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, paragraph (g)(164) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(164) *Amendment No. 390.* The provisions of Amendment No. 390 are effective November 3, 2000. State agencies may implement the provisions anytime after the effective date. However, Electronic Benefit Transfer (EBT) systems must be in place statewide no later than October 1, 2002, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

PART 274—ISSUANCE AND USE OF COUPONS

3. In § 274.3, a new paragraph (a)(5) is added to read as follows:

§ 274.3 Issuance systems.

(a) * * *

(5) An off-line Electronic Benefit Transfer system in which benefit allotments can be stored on a card or in a card access device and used to purchase authorized items at a point-of-sale terminal without real-time authorization from a central processor.

* * * * *

4. In § 274.12:

a. Paragraph (a) is revised.

b. Paragraph (b)(1) is amended by removing the second sentence and by removing the words ''However the'' and adding ''The'' in its place in the third sentence.

c. Paragraphs (c)(3)(i) through (c)(3)(vi) are removed.

d. Paragraphs (e), (f), (g), (h), (i), (j), (k), (l), and (m) are redesignated as paragraphs (f), (g), (h), (i), (j), (k), (l), (m), and (n), respectively, and a new paragraph (e) is added.

e. Newly redesignated paragraph (g)(5)(v) is revised.

f. In newly redesignated paragraph (i), a new paragraph (i)(6)(iv) is added.

g. Newly redesignated paragraph (l)(6) is removed.

The revisions and additions read as follows:

§ 274.12 Electronic Benefit Transfer issuance system approval standards.

(a) *General.* This section establishes rules for the approval, implementation and operation of Electronic Benefit Transfer (EBT) systems for the Food Stamp Program as an alternative to issuing food stamp coupons. By October 1, 2002, State agencies must have EBT systems implemented statewide, unless the Secretary provides a waiver for a State agency that faces unusual barriers to implementing an EBT system. In general, these rules apply to both on-line and off-line EBT systems, unless stated otherwise herein, or unless FNS determines otherwise for off-line systems during the system planning and development process.

* * * * *

(e) *Cost neutrality.* To receive full Federal reimbursement for food stamp administrative costs, the State agency must operate its EBT system in a cost-neutral manner, whereby the Federal cost of issuing benefits in the State after implementation of the EBT system does not exceed the Federal cost of delivering coupon benefits under the previous coupon issuance system. The issuance cost cap is expressed in terms of a cost per case month derived by dividing the annual total cost of issuance by the total number of households issued food stamp benefits during the year the costs were incurred. In determining its coupon issuance cap, the State agency shall use either: the National Coupon Issuance Cap, as determined by FNS, or calculate a State Coupon Issuance Cap based on the State agency's statewide issuance costs under the coupon issuance system. FNS will not reimburse the State agency for any costs incurred above the approved coupon issuance cap.

(1) The National Coupon Issuance Cap is a case-month issuance amount, as calculated by FNS.

(2) A State Coupon Issuance Cap is a case-month issuance amount, as calculated by the State agency based on guidance provided by FNS. The State agency must provide narrative explanations and satisfactory supporting documentation to clarify each cost item, its relationship to the coupon issuance function, and how it was calculated. All issuance costs included in the State coupon issuance cap must have been charged to the Federal government and are subject to validation by FNS.

(3) The State agency shall submit its State coupon issuance cap or indicate it has opted to use the National Coupon Issuance Cap as part of the Implementation APD process. The State coupon issuance cap must be approved by FNS prior to implementation of the pilot, and shall be effective from the first date benefits are issued to households through the EBT system during the pilot project.

(4) Each State agency's approved State issuance coupon cap and the National Coupon Issuance Cap will be adjusted each Federal fiscal year based on the percentage change in the most recently published Gross Domestic Product Implicit Price Deflator Index (GDP Price Deflator) calculated from the percentage change in the index between the first quarter of the current calendar year and the first quarter of the previous year, as published each June by the Bureau of Economic Analysis.

(5) The determination of cost neutrality will be assessed on a prospective basis; that is, FNS will make a determination whether the EBT system will be cost neutral based on a comparison of the coupon issuance costs to the projected costs of the EBT system. The State agency may choose how they determine coupon issuance costs either according to paragraph (e)(1) or paragraph (e)(2) of this section. After approval of its coupon cost cap, the State agency shall submit to FNS an analysis, completed according to FNS guidance, comparing the coupon issuance costs to the projected EBT costs over the contract period for system operation which defines the life of the system. If the State agency uses the National Coupon Issuance Cap, Statewide cost projections for issuance costs after EBT implementation must include all contract costs and all other direct EBT issuance costs. If the State agency develops their own State issuance cost cap, Statewide cost projections for issuance costs after EBT implementation must include all of the direct EBT costs, and projections for all categories of allocated costs which were included in the coupon cost cap calculation using the same allocation methodology as in the cost cap calculation.

(i) EBT planning costs are to be excluded from the cost neutrality assessment and shall include costs attributed to the preparation of the Planning APD, all activities leading to the development of the EBT implementation plan, and the completion of the documentation contained in the FNS approved Implementation APD.

(ii) The cost neutrality assessment must include pre-issuance costs, which can include system design, development and start-up costs, and operations costs. The operations phase is defined as beginning with the first EBT issuance in the pilot area.

(iii) If the comparison demonstrates the proposed system will cost less than the coupon issuance system, no further measurement will be required for the life of the system unless there is a substantial increase in EBT costs requiring prior approval as described in § 277.18 (c)(2)(ii)(C) of this chapter and the submittal of an Implementation APD Update as outlined in the FNS Handbook 901 (APD Handbook).

(iv) Any State agency that cannot demonstrate cost neutrality prospectively will be required to track EBT costs throughout the life of the system according to FNS guidance, and reimburse FNS for any excess at the end of the defined system life.

(6) The State agency is required to provide an updated cost neutrality assessment for all subsequent EBT systems developed or implemented, incorporating the revised costs of the new system.

* * * * *

(g) * * *

(5) * * *

(v) The State agency may impose a replacement fee by reducing the monthly allotment of the household receiving the replacement card; however, the fee may not exceed the cost to replace the card. If the State agency intends to collect the fee by reducing the monthly allotment, it must follow FNS reporting procedures for collecting program income. State agencies currently operating EBT systems must inform FNS of their proposed collection operations. State agencies in the process of developing an EBT system must include the procedure for collection of the fee in their system design document. All plans must specify how the State agency intends to account for card replacement fees and include identification of the replacement threshold, frequency, and circumstances in which the fee shall be applicable. State agencies may establish good cause policies that provide exception rules for cases where replacement card fees will not be collected.

* * * * *

(i) * * *

(6) * * *

(iv) State agencies may require the use of a photograph of one or more household members on the card. If the State agency does require the EBT cards to contain a photo, it must establish procedures to ensure that all appropriate household members or authorized representatives are able to access benefits from the account as necessary.

* * * * *

Dated: September 21, 2000.

Shirley R. Watkins,

Under Secretary for Food, Nutrition and Consumer Services.

[FR Doc. 00–25364 Filed 10–3–00; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96–1–016]

Standards For Business Practices Of Interstate Natural Gas Pipelines

Issued September 28, 2000.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; Order Granting Clarification.

SUMMARY: The Federal Energy Regulatory Commission is granting clarification of Order No. 587–L (65 FR 41873), which established November 1, 2000, as the date by which pipelines are required to comply with the regulation requiring them to permit shippers to offset imbalances on different contracts held by the shipper and to trade imbalances. (18 CFR 284.12(c)(2)(ii)). The order clarifies that pipelines on which shippers do not incur imbalances and are not subject to imbalance penalties need not implement imbalance trading on their systems.

DATES: Pipelines seeking an exemption from the imbalance trading requirement must file within 15 days of the order to show why they should not be required to implement imbalance trading.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–2294.

Marvin Rosenberg, Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–1283.

Kay Morice, Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0507.

SUPPLEMENTARY INFORMATION:

Before Commissioners: James J. Hoecker, Chairman; William L. Massey, Linda Breathitt, and Curt Hebert, Jr.

Order Granting Clarification

Issued September 28, 2000.

Iroquois Gas Transmission System, L.P. (Iroquois) and Michigan Gas Storage Company (Michigan) filed requests for clarification or rehearing of Order No. 587–L.[1] Order No. 587–L established November 1, 2000 as the date by which pipelines are required to implement section 284.12(c)(2)(ii) of the Commission's regulations requiring pipelines to implement imbalance netting and trading on their systems.[2] Pipelines are required to file tariff sheets to implement imbalance trading in sufficient time for the tariff changes to become effective November 1, 2000.

Iroquois and Michigan request clarification that pipelines on which shippers do not incur imbalances and are not subject to imbalance penalties are not required to implement imbalance trading on their systems. Iroquois and Michigan state that, in Order No. 637–A,[3] the Commission determined that pipelines without imbalance penalties would not be required to offer imbalance management services, and contend that the same rationale should apply to imbalance trading.

The Commission agrees that pipelines on which shippers do not incur imbalances and are not subject to imbalance penalties need not implement imbalance trading on their systems. The purpose of requiring imbalance trading was to establish a mechanism by which shippers can avoid imbalance charges. If shippers cannot incur imbalances, then shippers do not need to trade imbalances.

However, the Commission cannot make a determination in a generic rulemaking proceeding as to whether the circumstances on an individual pipeline permit an exemption from the requirement to provide imbalance trading. Shippers on the individual systems should be given the opportunity to respond to any request for such an exemption. Accordingly, pipelines that seek an exemption from the imbalance trading requirement must file within 15 days of this order showing why they should not be required to implement imbalance trading on their systems.

The Commission Orders

(A) The requests for clarification are granted, in part, as discussed in the body of the order.

(B) Pipelines seeking an exemption from the imbalance trading requirement are required to file within 15 days of the

[1] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587–L, 65 FR 41873 (July 7, 2000), III FERC Stats. & Regs. Regulations Preambles ¶ 31,100 (June 30, 2000).

[2] 18 CFR 284.12(c)(2)(ii).

[3] Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, Order No. 637–A, 65 FR 35706, 35736 (Jun. 5, 2000), III FERC Stats. & Regs. Regulations Preambles ¶ 31,099, at 31,600–601 (May 19, 2000).

order to show why they should not be required to implement imbalance trading.

By the Commission.

David P. Boergers,

Secretary.

[FR Doc. 00–25437 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Part 1275

[Docket No. NHTSA–98–4537]

RIN 2127–AH47

Repeat Intoxicated Driver Laws

AGENCIES: National Highway Traffic Safety Administration (NHTSA) and Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some changes, the regulations that were published in an interim final rule to implement a new program established by the Transportation Equity Act for the 21st Century (TEA 21) Restoration Act. The final rule provides for a transfer of Federal-aid highway construction funds authorized under 23 U.S.C. 104 to the State and Community Highway Safety Program under 23 U.S.C. 402 for any State that fails to enact and enforce a conforming ''repeat intoxicated driver'' law.

DATES: This final rule becomes effective on October 4, 2000.

FOR FURTHER INFORMATION CONTACT: In NHTSA: Mr. Glenn Karr, Office of State and Community Services, NSC–01, telephone (202) 366–2121; or Ms. Heidi L. Coleman, Office of Chief Counsel, NCC–30, telephone (202) 366–1834, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. In FHWA: Mr. Byron E. Dover, Safety, HSA–1, telephone (202) 366–2161; or Mr. Raymond W. Cuprill, Office of the Chief Counsel, HCC–20, telephone (202) 366–0834, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

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I. Background

The Transportation Equity Act for the 21st Century (TEA 21), H.R. 2400, Pub. Law 105–178, was signed into law on June 9, 1998. On July 22, 1998, the TEA 21 Restoration Act (the Act), Pub. Law 105–206, was enacted to restore provisions that had been agreed to by the conferees on TEA 21, but were not included in the TEA 21 conference report. Section 1406 of the Act amended chapter 1 of title 23, United States Code (U.S.C.), by adding section 164, which established a program to transfer a percentage of a State's Federal-aid highway construction funds to the State's apportionment under section 402 of Title 23 of the United States Code, if the State fails to enact and enforce a conforming ''repeat intoxicated driver'' law that provides for certain specified minimum penalties for persons who have been convicted of driving while intoxicated or under the influence upon their second and subsequent convictions.

In accordance with section 164, these funds are to be used for alcohol-impaired driving countermeasures or the enforcement of driving while intoxicated (DWI) laws, or States may elect instead to use all or a portion of the funds for hazard elimination activities, under 23 U.S.C. section 152.

A. The Problem of Impaired Driving

Injuries caused by motor vehicle traffic crashes are the leading cause of death in America for people aged 5 to 29. Each year, traffic crashes in the United States claim approximately 41,000 lives and cost Americans an estimated $150 billion, including $19 billion in medical and emergency expenses, $42 billion in lost productivity, $52 billion in property damage, and $37 billion in other crash-related costs. In 1999, alcohol was involved in approximately 38 percent of fatal traffic crashes. Every 33 minutes, someone in this country dies in an alcohol-related crash. Impaired driving is the most frequently committed violent crime in America.

B. Repeat Intoxicated Driver Laws

State laws that are directed to individuals who have been convicted more than once of driving while intoxicated or driving under the influence are critical tools in the fight against impaired driving. To encourage States to enact and enforce effective impaired driving laws, Congress has created a number of different programs. Under the section 410 program (23 U.S.C. 410), and its predecessor the section 408 program (23 U.S.C. 408), for example, States could qualify for incentive grant funds if they adopted and implemented certain specified laws and programs designed to deter impaired driving. Some of these laws and programs were directed specifically toward repeat impaired driving offenders.

For example, prior to the enactment of TEA 21, to qualify for an incentive grant under the section 410 program, a State was required to meet five out of seven basic grant criteria that were specified in the Act and the implementing regulation. The criteria included, among others, an expedited driver license suspension system, which required a mandatory minimum one-year license suspension for repeat offenders, and a mandatory minimum sentence of imprisonment or community service for individuals convicted of driving while intoxicated more than once in any five-year period.

States that were eligible for a basic section 410 grant could qualify also for additional grant funds by meeting supplemental grant criteria, such as the suspension of registration and return of license plate program. States could demonstrate compliance with this program by showing that they provided for the impoundment, immobilization or confiscation of an offender's motor vehicles.

TEA 21 changed the section 410 program and, specifically, the section 410 criteria that were directed toward repeat offenders. The conferees to that legislation had intended to create a new repeat intoxicated driver transfer program to encourage States to enact repeat intoxicated driver laws, but this new program was inadvertently omitted from the TEA 21 conference report. The program was included instead in the TEA 21 Restoration Act, which was signed into law on July 22, 1998.

C. Section 164 Repeat Intoxicated Driver Law Program

Section 164 provides that, on October 1 of each year, the Secretary must transfer a portion of a State's Federal-aid highway construction funds apportioned under sections 104(b)(1), (3), and (4) of title 23 of the United States Code, for the National Highway System, Surface Transportation Program and Interstate System, to the State's apportionment under section 402 of that title, if the State fails to enact and enforce a conforming ''repeat intoxicated driver'' law. If a State does not meet the statutory requirements on October 1, 2000 or October 1, 2001, an amount equal to one and one-half percent of the funds apportioned to the State will be transferred. If a State does not meet the statutory requirements on October 1, 2002, or on October 1 of any subsequent year, an amount equal to three percent of the funds apportioned to the State will be transferred.

To avoid the transfer of funds, a State must enact and enforce a law that establishes, at a minimum, certain specified penalties for second and subsequent convictions for driving while intoxicated or under the influence. These penalties include: a one-year driver's license suspension; the impoundment or immobilization of, or the installation of an ignition interlock system on, the repeat intoxicated driver's motor vehicles; assessment of the repeat intoxicated driver's degree of alcohol abuse, and treatment as appropriate; and the sentencing of the repeat intoxicated driver to a minimum number of days of imprisonment or community service.

II. Interim Final Rule

On October 19, 1998, NHTSA and the FHWA published an interim final rule in the **Federal Register** to implement the section 164 program (63 FR 55798). The interim final rule provided that, to avoid the transfer of funds, a State must have a law that has been enacted and made effective, and the State must be actively enforcing the law. In addition, the law must meet certain requirements.

A. Compliance Criteria

The interim final rule provided that, to avoid a transfer of funds, a State must meet the following requirements:

1. *A minimum one-year license suspension.* The State's law must impose a mandatory minimum one-year driver's license suspension or revocation on all repeat intoxicated drivers. Accordingly, during the one-year term, the offender cannot be eligible for any driving privileges, such as a restricted or hardship license.

2. *Impoundment or immobilization of, or the installation of an ignition interlock system on, motor vehicles.* The State's law must require the impoundment or immobilization of, or the installation of an ignition interlock on, all motor vehicles owned by the repeat intoxicated offender. To comply with this criterion, the State law must require that the impoundment or immobilization be imposed during the one-year suspension term, or that the ignition interlock system be installed at the conclusion of the suspension period.

3. *An assessment of their degree of alcohol abuse, and treatment as appropriate.* To avoid the transfer of funds, the State's law must require that all repeat intoxicated drivers undergo an assessment of their degree of alcohol abuse and the law must authorize the imposition of treatment as appropriate.

4. *Mandatory minimum sentence.* The State's law must impose a mandatory minimum sentence on all repeat intoxicated drivers. For a second offense, the law must provide for a mandatory minimum sentence of not less than five days of imprisonment or 30 days of community service. For a third or subsequent offense, the law must provide for a mandatory minimum sentence of not less than ten days of imprisonment or 60 days of community service.

A more detailed discussion of the four elements described above is contained in the interim final rule (63 FR 55798–800).

B. Demonstrating Compliance

Section 164 provides that nonconforming States will be subject to the transfer of funds beginning in fiscal year 2001. The interim final rule provides that, to avoid the transfer, each State must submit a certification by an appropriate State official that the State has enacted and is enforcing a repeat intoxicated driver law that conforms to 23 U.S.C. 164 and section 1275 of this part. A more detailed discussion regarding the certifications is contained in the interim final rule (63 FR 55800).

C. Enforcement

Section 164 provides that a State must not only enact a conforming law, but must also enforce the law. In the interim final rule, the agencies encouraged the States to enforce their repeat intoxicated driver laws rigorously. In particular, the agencies recommended that States incorporate into their enforcement efforts activities designed to inform law enforcement officers, prosecutors, members of the judiciary and the public about all aspects of their repeat intoxicated driver laws. States should also take steps to integrate their repeat intoxicated driver enforcement efforts into their enforcement of other impaired driving laws.

To demonstrate that they are enforcing their laws under the regulations, the interim rule indicated that States are required to submit a certification that they are enforcing their laws.

D. Notification of Compliance

The interim final rule provided that, for each fiscal year, beginning with FY 2001, NHTSA and the FHWA will notify States of their compliance or noncompliance with section 164, based on a review of certifications received. If, by June 30 of any year, beginning with the year 2000, a State has not yet been determined by the agencies, based on the State's laws and a conforming certification, to comply with section 164 and the implementing regulations, the agencies will make an initial determination that the State does not comply with section 164, and the transfer of funds will be noted in the FHWA's advance notice of apportionment for the following fiscal year, which generally is issued in July.

Each State determined to be in noncompliance will have until September 30 to rebut the initial determination or to come into compliance. The State will be notified of the agencies' final determination of compliance or noncompliance and the amount of funds to be transferred as part of the certification of apportionments, which normally occurs on October 1 of each fiscal year.

III. Written Comments

The agencies requested written comments from interested persons on the interim final rule. The agencies stated in the interim rule that all comments submitted would be considered and that, following the close of the comment period, the agencies would publish a document in the **Federal Register** responding to the comments and, if appropriate, make revisions to the provisions of part 1275.

A. Comments Received

The agencies received submissions from thirteen commenters in response to the interim final rule. Comments were received from five States, three organizations representing State interests and five other individuals or organizations with an interest in the issues being considered as part of these proceedings. The State comments were submitted by Tricia Roberts, Director of the Delaware Office of Highway Safety, Brian J. Bushweller, Secretary of the Delaware Department of Public Safety and Anne P. Canby, Secretary of the Delaware Department of Transportation (Delaware); James R. DeSana, Director of the Michigan Department of Transportation and Betty J. Mercer, Division Director of the Office of Highway Safety Planning, Michigan Department of State Police (Michigan); Thomas E. Stephens, P.E., Director of the Nevada Department of Transportation (Nevada); Keith C. Magnusson, Director of Driver and Vehicle Services, North Dakota Department of Transportation (North Dakota); and Charles H. Thompson, Secretary of the Wisconsin Department of Transportation (Wisconsin).

The comments received from organizations representing State interests were submitted by Kenneth M. Beam, President and CEO of the American Association of Motor Vehicle Administrators (AAMVA); Carl D. Tubbesing, Deputy Executive Director of the National Conference of State Legislatures (NCSL); and K. Craig Allred, Director of the Utah Highway Safety Office, who commented in his capacity as the Chair of the National Association of Governors' Highway Safety Representatives (NAGHSR).

The comments from individuals or organizations with an interest in the issues being considered in these proceedings were submitted by Mothers Against Drunk Driving (MADD); Richard Freund, President of LifeSafer Interlock, Inc. (LifeSafer); Henry Jasny, General Counsel for Advocates for Highway and Auto Safety (Advocates); Robert B. Voas, Ph.D., of the Pacific Institute (Dr. Voas); and James Hedlund of Highway Safety North (Dr. Hedlund).

Additionally, while not written in response to this rulemaking action, the National Transportation Safety Board (NTSB) issued a Safety Recommendation (H–00–27) to the Secretary of Transportation on August 7, 2000, related to the section 164 program.

The comments, and the agencies' responses to them, are discussed in detail below. Also discussed below are certain changes that the agencies have decided to make in this final rule based on their experience reviewing State laws and proposed legislation since the issuance of the interim final rule.

B. General Comments

Some of the comments submitted in response to the interim final rule commended the agencies on the manner in which the interim rule implemented the statutory requirements. North Dakota, for example, stated that it did ''not have any problems with the text of the regulation'' and that the regulations ''appear to track with the law'' and ''seem to be straight forward and appropriate.'' Advocates also supported the interim regulations. Its comments provided that ''in nearly all respects, the agencies have made reasoned and well thought out decisions in areas left to agency discretion by the statute.''

Many of the comments, however, were critical of the section 164 program in general. While most commenters recognized that the criteria that States must meet and the consequences that will result to any State that fails to comply with them were defined by statute, many of the commenters were critical of these features of the program.

For example, regarding the use of consequences for State non-compliance, Delaware asserted that, while it ''has long supported efforts to reduce impaired driving on our roadways, we strongly oppose the sanctions related to this Repeat Intoxicated Driver Law. We believe that transfer penalties interfere with the [States'] progress towards comprehensive efforts.'' Michigan recommended that Congress should establish instead a ''performance-based alternative'' under which States ''can demonstrate measurable, significant success in reducing recidivism, either within the state or as compared to the national average.'' NCSL and the State of Wisconsin also objected to the use of transfer sanctions.

Regarding the statutory criteria that States must meet to avoid the sanction, NCSL expressed its belief that ''a one-size-fits-all approach is not the best way to tackle the nation's drunk driving problem.'' In addition, NAGHSR and some of the State commenters predicted that the criteria are so stringent, it is unlikely that any State will fully comply.

NHTSA and the FHWA acknowledge that some of the compliance criteria are strictly defined in section 164 and that some may consider the consequences established in section 164 for States that fail to comply with these criteria to be rather severe. However, the agencies are bound to implement the section 164 program, in accordance with the requirements that were established by the statute. Regarding Michigan's suggestion that a performance-based alternative be established, we note that Congress has established performance-based programs under section 157 (for seat belt use) and section 410 (for impaired driving), but Congress has thus far chosen to use a different approach in the area of repeat intoxicated drivers.

Moreover, we note that this program has had a significant impact on State repeat intoxicated driver laws. Since the enactment of the TEA 21 Restoration Act, State repeat intoxicated driver laws have been strengthened, through the passage of new legislation, in 19 States and the District of Columbia. NHTSA has determined that the laws of nearly half the States (23 of them to date) and the District of Columbia fully comply with the section 164 requirements.

Finally, we note that, in the Safety Recommendation that it issued to the Secretary on August 7, 2000, NTSB submitted detailed comments regarding the statutory requirements contained in section 164. NTSB stated that the section 164 program represents ''a substantial effort by Congress to address the hard core drinking driver problem * * * However, the Safety Board believes that this legislation could be even more effective.'' The Board recommended that the agency:

> Evaluate modifications to the provisions of [the TEA 21 Restoration Act] so that it can be more effective in assisting the States to reduce the hard core drinking driver problem [and] recommend changes to Congress as appropriate. Considerations should include (a) a revised definition of ''repeat offender'' to include administrative actions on DWI offenses; (b) mandatory treatment for hard core offenders; (c) a minimum period of 10 years for records retention and DWI offense enhancement; (d) administratively imposed vehicle sanctions for hard core drinking drivers; (e) elimination of community service as an alternative to incarceration; and (f) inclusion of home detention with electronic monitoring as an alternative to incarceration.

Since NTSB's comments recommend that the agency seek legislative changes to the section 164 program, these comments will not be addressed specifically in this final rule. These recommendations are being considered separately by the agency, outside the scope of this rulemaking action.

C. Definitions Adopted in the Interim Final Rule

Section 164 provides that, to avoid the transfer of funds under this program, a State must enact and enforce:

> a ''repeat intoxicated driver law'' * * * that provides * * * that an individual

convicted of a second or subsequent offense for driving while intoxicated or driving under the influence [must be subject to certain specified minimum penalties].

The statute defines the term ''repeat intoxicated driver law'' to mean ''a State law that provides [certain specified minimum penalties for] an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence * * *'' The agencies incorporated this definition into the interim final rule. The interim rule also defined the term ''repeat intoxicated driver.'' Consistent with other programs conducted by the agencies and with State laws and practices, the interim regulations provided that an individual is a ''repeat intoxicated driver'' if the driver was convicted of driving while intoxicated or driving under the influence of alcohol more than once in any five-year period.

The terms ''driving while intoxicated'' and ''driving under the influence'' were defined in the statute to mean ''driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.'' The statute also defined the term ''alcohol concentration.'' The interim regulations adopted these definitions without change.

The agencies received a number of comments regarding these definitions. Most of the comments sought to expand the definition of the terms ''driving while intoxicated'' and ''driving under the influence,'' so that a broader set of offenses would result in mandatory sanctions.

For example, MADD, Dr. Hedlund and Dr. Voas questioned the use of language in this definition, which provides that offenders must have had ''an alcohol concentration above the permitted limit as established by [the] State.'' As Dr. Hedlund explained in his comments, the inclusion of this language ''raises the issue of whether an alcohol concentration test is required to establish the offense of driving while intoxicated (or driving under the influence). In practice, for a variety of reasons, it is not possible to obtain an alcohol concentration test for every individual arrested for driving while intoxicated. In particular, some individuals refuse to provide a breath test. But many individuals are convicted of driving while intoxicated without an alcohol concentration test, based on other evidence obtained by the arresting officer.'' Accordingly, these three commenters urged the agencies to modify the interim regulations to clarify that the mandatory sanctions must apply to offenders who are convicted of ''driving while intoxicated'' or ''driving under the influence,'' even if their alcohol concentrations are not known.

The agencies agree with these comments. Offenders who were convicted of driving while intoxicated or driving under the influence should not avoid the mandatory sanctions, simply because their alcohol concentrations are not known. Congress would not have intended such an outcome. To provide clarification in the implementing regulations, the agencies have modified the definition of the terms ''driving while intoxicated'' and ''driving under the influence'' to mean ''driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State, or an equivalent non-BAC intoxicated driving offense.''

These definitions should clarify that, to comply with the Section 164 program, a State's law must apply the mandatory sanctions to any offender who is convicted of driving while intoxicated or driving under the influence of alcohol, whether or not the conviction is based on the offender's alcohol concentration level. The definitions should clarify also that the driving while intoxicated or driving under the influence offense must be the ''standard'' offense in the State. In other words, the sanctions need not apply to lesser included offenses (such as .05 BAC driving while impaired offenses), but it is not sufficient if the sanctions apply only to ''high BAC'' (such as .17 or .20 BAC) offenses.

MADD and the State of Wisconsin recommended two additional changes. They urged the agencies to expand these definitions to require the imposition of mandatory sanctions on offenders who refuse to submit to an alcohol test, even if they are not convicted of driving while intoxicated or driving under the influence, and on offenders who are convicted of driving while under the influence ''of drugs'' other than alcohol.

The agencies are unable to adopt these recommendations because they are outside the scope of the section 164 program, as authorized by Congress. section 164 specifically provides that a conforming ''repeat intoxicated driver law'' is a law that applies the specified mandatory sanctions to individuals ''convicted'' of a second or subsequent offense. Accordingly, the agencies do not have the authority to require that States apply these sanctions to offenders who are not convicted of the driving while intoxicated or driving while under the influence offense. As discussed above, the agencies have modified the regulations to clarify that the mandatory sanctions specified in section 164 must apply to offenders who refuse to submit to an alcohol test and are convicted of driving while intoxicated or driving under the influence. However, the sanctions need not apply to offenders who refuse to submit to an alcohol test and are not convicted of such an offense. Of course, if States choose to apply additional sanctions to these offenders, the section 164 program will not prevent them from doing so.

Similarly, there is nothing in the language or the legislative history of section 164 that indicates that Congress expected that the mandatory sanctions must apply to offenders convicted of driving under the influence ''of drugs'' other than alcohol. In fact, several portions of the statute make it clear that the program was designed specifically to address repeat offenders convicted only of driving while intoxicated or under the influence ''of alcohol.'' For example, the offenses are defined to require that the driver had ''an alcohol concentration above the permitted limit.'' In addition, two of the sanctions that must be imposed include requiring ''an assessment of the individual's degree of abuse of alcohol [not drugs]'' and vehicle sanctions, such as ''the installation of an ignition interlock system'' on the offenders'' vehicles, which would prevent the offender from starting or operating a vehicle with any alcohol (not drugs) in his or her system.

Since these recommended changes would exceed the scope of section 164, they have not been adopted in this final rule.

As stated above, the interim regulations defined the term ''repeat intoxicated driver'' to mean ''a person who has been convicted previously of driving while intoxicated or driving under the influence within the past five years.'' The agencies received two comments, from the State of Delaware and from Advocates, regarding the meaning of this definition.

Specifically, Delaware noted that ''this provision does not take into account an offender who has been arrested of more than one DUI offense within a 5 year period but has not been convicted of both at the time of the second or subsequent arrest.'' Advocates requested clarification about the effect of this definition on States that do not maintain or, ''look back'' at, records for the full five-year period. According to Advocates, ''the agencies do not unequivocally state that laws with only a 3 year ''look back'' provision do not comply with the implementing regulations in the interim final rule.''

The agencies wish to verify that Delaware's interpretation of the regulations is correct. To determine whether an individual is a repeat intoxicated offender for the purpose of this program, the State is required to consider whether an individual was convicted (not arrested) more than once within a five-year period. In response to the comments received from Advocates, we wish to clarify that, to comply with the section 164 requirements, States must not only provide that mandatory sanctions apply to offenders convicted more than once within a five-year period, the States must also ensure that such sanctions are imposed. This requires necessarily that the State has the ability to, and in fact does, ''look back'' five (or more) years to determine whether the sanctions should be applied.

To further clarify this definition, the agencies have modified the language slightly, so that it now provides that the term ''repeat intoxicated driver'' means ''a person who has been convicted of driving while intoxicated or driving under the influence of alcohol more than once in any five-year period.''

D. Specific Comments Regarding the Repeat Intoxicated Driver Criteria

Most comments received by the agencies in response to the interim final rule related to the specific criteria that repeat intoxicated driver laws must meet for a State to avoid a transfer of funds. Comments were received regarding each of the four penalties, described in the criteria, that State laws must impose on repeat intoxicated drivers. These comments and the agencies' responses to them are discussed in greater detail below.

1. A Minimum One-Year License Suspension

Section 164 provides that, to avoid a transfer of funds, the State must have a law that imposes a mandatory minimum one-year driver's license suspension on all repeat intoxicated drivers. The statute defines the term ''license suspension'' to mean ''the suspension of all driving privileges.'' Accordingly, the interim final rule provided that the offender must be subject to a hard suspension (or revocation), for a minimum period of one year, during which the offender cannot be eligible for any driving privileges, such as a restricted or hardship license.

The agencies received comments from NAGHSR, LifeSafer, and the States of Wisconsin, Michigan and Delaware objecting to the one-year hard license suspension requirement. These commenters cited a number of reasons for their objections. Wisconsin, NAGHSR and Michigan, for example, thought a one-year hard license suspension could result in financial hardships to some offenders, particularly those who live in rural communities. According to comments from both NAGHSR and Michigan, ''Rural offenders would be especially adversely impacted since they may not be able to arrange for alternative means of transportation during such an extended period.'' In addition, Delaware, Wisconsin and Michigan suggested that, ultimately, this strict requirement might have the unintended effect of, as Delaware put it, offering some offenders with ''no alternatives'' and encouraging them to drive without a valid license. These commenters all seem to agree that repeat intoxicated drivers should be subject to a one-year driver's license suspension that includes some period of hard suspension, but they suggested hard suspension periods of less than one year, such as 30 or 60 days.

Further, NAGHSR asserted that it had ''found nothing in the legislative history of [section 164] which would support the need for a one-year hard license suspension.'' In addition, Michigan stated that it thought it ''unlikely that any State will be in compliance with the provision'' and NAGHSR predicted that ''few State legislatures will be willing to enact [conforming] legislation.''

The agencies do not share the concerns that were expressed in these comments. Regarding the agencies' authority to include in the regulations a one-year hard driver's license suspension requirement, the agencies have determined that inclusion of this requirement is not only supported by section 164's legislative history, but is required by the plain language of the statute itself. The statute provides specifically that State laws must provide, ''as a minimum penalty, that [repeat intoxicated drivers] * * * shall receive a driver's license suspension for not less than 1 year'' and the statute defines the term ''license suspension'' to mean ''the suspension of *all* driving privileges.'' [Emphasis added.]

Regarding the predictions that few, if any, States would enact conforming legislation, we note that, to date, 23 States and the District of Columbia have laws that NHTSA has determined meet all the section 164 requirements and at least 11 additional States meet the one-year hard driver's license suspension criterion, although they do not meet all the requirements of the section 164 program. We note also that, although they objected initially to this criterion in their comments to the interim final rule, Michigan and Utah are two of the States whose laws have been determined to comply fully with section 164, including the one-year hard license suspension requirement.

Regarding the comments that suggest that a one-year hard license suspension could result in financial hardships to some offenders, particularly those who live in rural communities, the agencies note that the research that has been performed in this area does not support that conclusion. Although the research to date has not studied the impact of hard suspensions of a full one-year period, there has been research that found that hard suspensions of a shorter length of time did not have an impact at all on an offender's employment. In a 1996 study of three States with administrative license revocation programs, for example, researchers found that 94% of the offenders who were employed at the time of arrest were still working after a one-month revocation period. The researchers found also that the percentage of offenders still employed one month after arrest was the same in comparison States that did not apply a license revocation sanction. Moreover, the agencies note that many of the States with conforming laws contain regions that are rural in nature. Some of the States with conforming laws include Alabama, Arizona, Iowa, New Hampshire, Oregon and Utah.

The agencies recognize, as the commenters do, that many offenders who are subject to license suspensions or revocations operate motor vehicles anyway, without a valid license. As we noted in the interim final rule, some studies have found that as many as 70 percent of all repeat offenders continue to drive even after their driver's licenses have been suspended or revoked.

However, the agencies do not believe that the elimination or even the reduction of driver licensing sanctions is the best remedy for this problem. We believe that Congress hoped that States would address that concern instead by enacting strong vehicle sanctions, including those outlined in the second criterion of the section 164 program (and discussed in greater detail below), such as by impounding or immobilizing the motor vehicles owned by the offender during the suspension or revocation period. In addition, States are encouraged, under NHTSA's Section 410 program, to establish separate vehicle sanctions for offenders who operate a motor vehicle while their license is under suspension or revocation.

For the reasons discussed above, this portion of the interim regulations has been adopted without change.

2. Impoundment or Immobilization of, or the Installation of an Ignition Interlock System, on Motor Vehicles

Section 164 provides that, to avoid the transfer of funds, the State must have a law that requires the impoundment or immobilization of, or the installation of an ignition interlock on, each motor vehicle owned by the repeat intoxicated offender.

The term ''impoundment or immobilization'' was defined in the interim regulations to mean ''the removal of a motor vehicle from a repeat intoxicated driver's possession or the rendering of a repeat intoxicated driver's motor vehicle inoperable,'' and the agencies indicated that the definition would also include ''the forfeiture or confiscation of a repeat intoxicated driver's motor vehicle or the revocation or suspension of a repeat intoxicated driver's motor vehicle license plate or registration.'' The agencies defined the term ''ignition interlock system'' in the interim regulations to mean ''a State-certified system designed to prevent drivers from starting their [motor vehicles] when their breath alcohol concentration is at or above a preset level.''

The interim final rule explained that the State law does not need to provide for all three types of penalties to comply with this criterion, but it must require that at least one of the three penalties will be imposed on all repeat intoxicated drivers for the State to avoid the transfer of funds.

The interim final rule also specified that, to comply with the interim regulations, the State law must require that the impoundment or immobilization must be imposed during the one-year suspension period, or that the ignition interlock be installed at the conclusion of the suspension period. The interim regulations did not specify the length of time during which these penalties must remain in effect.

The impoundment, immobilization or ignition interlock criterion is the most complex of the section 164 requirements. Accordingly, it is not surprising that it generated the most comments. Every respondent that submitted comments in response to the interim final rule addressed at least some aspect of this requirement. The comments received regarding this criterion and the agencies' responses to them are discussed in detail below.

a. *Mandatory Penalty.* The agencies explained, in the preamble to the interim final rule, that the State law does not need to provide for all three types of penalties to comply with this criterion, but it must require that at least one of the three penalties will be imposed on all repeat intoxicated drivers, for the State to avoid the transfer of funds. Later in the interim rule, when describing the time frame for these three penalties, the agencies stated that the State law must require that the impoundment or immobilization be imposed during the one-year suspension term, and that the ignition interlock system be installed at the conclusion of the one-year term. These statements generated four comments regarding the mandatory nature of this criterion.

AAMVA and the State of North Dakota objected to the statement that the State law must ''require that at least one of the three penalties will be imposed.'' They asserted that the impoundment, immobilization or ignition interlock sanctions need only ''be available'' or that they ''may'' be imposed. These commenters did not believe that these sanctions ''must'' be imposed. The agencies disagree. Section 164 provides for four minimum penalties, and we find that there is nothing in either the statutory language or the legislative history to suggest that three of the penalties are mandatory and the fourth (the impoundment, immobilization or ignition interlock requirement) is optional.

The commenters seem to base their assertion on the fact that the statute provides that State laws must require that repeat intoxicated drivers must ''receive'' license suspensions, minimum sentences and assessment and treatment, while the statute provides that they must ''be subject to'' the impoundment, immobilization or ignition interlock requirement. The agencies conclude that the difference in language in this provision does not signify any difference in the mandatory nature of the requirement, but is simply a grammatical device used, since an offender may ''receive'' a suspension, a sentence, an assessment and treatment, but an offender would not ''receive'' an impoundment, immobilization or ignition interlock installation. Rather the offender is ''subject to'' these sanctions when the sanctions are applied to the offender's vehicles. The agencies continue to conclude that, to avoid a sanction, the State law must require that at least one of these three penalties must be imposed on all repeat intoxicated drivers.

The State of Nevada objected to the statement in the interim final rule that ''the State law must require that the impoundment or immobilization be imposed during the one-year suspension term, *and* that the ignition interlock system be installed at the conclusion of the one-year term.'' [Emphasis added.] Nevada thought this statement was meant to signify that States must impose the impoundment or immobilization penalty (during the license suspension period) *and also* the ignition interlock penalty (at the end of the suspension period).

However, this was not the meaning that the agencies had intended to convey. Rather, the statement was included simply to clarify the time frames for each of these sanctions. Regarding the mandatory nature of these sanctions, the agencies believe the plain language in the interim regulations is clear. It provides, ''to avoid the transfer of funds * * *, a State must enact and enforce a law that establishes that all repeat intoxicated drivers shall * * * be subject to either * * * the impoundment * * *, immobilization * * * or ignition interlock [sanction].'' In addition, as the agencies explain in the preamble to the interim final rule, ''the State law does not need to provide for all three types of penalties to comply with this criterion, but it must require that at least one of the three penalties will be imposed.'' Since the statement which Nevada found ambiguous was in the preamble to the rule, and not the interim regulations themselves, no regulatory changes are needed in this final rule to clarify this statement.

Moreover, we note that no other commenters interpreted the interim final rule in this way. Advocates, for example, stated in its comments, ''The agencies appropriately analyzed the distinct purposes of these sanctions, and correctly noted that section 164 requires the imposition only of one sanction since they are set forth disjunctively in the statute.''

Accordingly, no changes to the interim regulations have been adopted in response to these comments.

b. *Timing of the Sanctions.* In the interim final rule, the agencies explained that Section 164 does not specify when a State must impose the impoundment or immobilization of, or the installation of an ignition interlock system on, motor vehicles. Therefore, to determine when these penalties must be imposed, the agencies considered the purpose of the three penalties.

The agencies recognized in the interim rule that the purpose of an impoundment or immobilization sanction is very different from that of the installation of an ignition interlock system. We explained that, when an individual convicted of driving while intoxicated is subject to a driver license suspension, it is expected that the

individual will not drive for the length of the suspension term. However, some studies have found that as many as 70 percent of all repeat offenders continue to drive even after their driver's licenses have been suspended or revoked.

Accordingly, the agencies concluded that the laws that provide for the impoundment or immobilization of motor vehicles are designed to ensure that driver's license suspension sanctions are not ignored. They seek to prevent offenders from driving vehicles while their driver's licenses are under suspension.

The agencies explained in the interim final rule that laws that provide for the installation of an ignition interlock system on a motor vehicle, on the other hand, are not designed to prevent the individual from driving. Such laws generally provide that these systems will be installed on a motor vehicle once the individual's driver's license has been restored. The agencies stated that these laws recognize that many individuals convicted of driving while intoxicated have difficulty controlling their drinking. Accordingly, they are designed to prevent individuals, once they are permitted to drive again, from drinking and driving.

Based on the nature of these penalties, the agencies decided in the interim final rule not to adopt a uniform time frame for these three penalties. Instead, the interim regulations provided that the State law must require either the impoundment or immobilization of the offender's vehicles during the one-year suspension term or the installation of an ignition interlock system at the conclusion of the suspension. The interim regulations did not specify the length of time during which these penalties must remain in effect.

The agencies received a number of comments regarding these features of the interim regulations.

Some of the comments expressed support for these aspects of the interim regulations. For example, Advocates stated, ''the agencies accurately recognize that impoundment or immobilization are sanctions that should be imposed concurrently with a one-year suspension, whereas the ignition interlock would logically apply after the suspension is completed.'' However, most of the comments received by the agencies were critical of these aspects of the interim rule.

Regarding the application of impoundment or immobilization sanctions, many of the commenters were troubled that the interim regulations did not establish a minimum length of time for these penalties. NCSL, NAGHSR and the State of Michigan, for example, were concerned that a State could comply with this requirement by impounding or immobilizing a vehicle for a single day, and MADD and LifeSafer ventured that a State may even be able to comply by impounding or immobilizing a vehicle for only an hour. Some of the commenters specified a minimum period of time that would be appropriate, such as 30 days, which was suggested by MADD and Dr. Voas, or 15–30 days, which was suggested by LifeSafer.

Some of the commenters also suggested that the impoundment or immobilization sanction should be imposed quickly, to maximize the impact of these sanctions and to prevent offenders from transferring their vehicles. MADD, LifeSafer and Dr. Voas, for example, urged the agencies to require that such sanctions occur immediately, at the time of the offender's arrest.

Regarding the installation of ignition interlock devices, many of the commenters objected to the requirement that ignition interlock devices must be installed at the conclusion of the one-year driver's license suspension. LifeSafer asserted that these devices have been shown to be effective and predicted that a one-year delay would greatly curtail their use. NCSL and the State of Michigan thought it was unlikely that any State would adopt the ignition interlock sanction under these conditions. MADD asserted that, ''the longer the ignition interlock device remains on the offender's vehicle, the more effective it is in changing his or her behavior and increasing the likelihood of reducing recidivism.'' Accordingly, MADD suggested that ignition interlock devices should be installed at the time of arrest and should remain on the offender's vehicle for a minimum period of one year following license reinstatement.

The agencies have decided not to change the regulations in response to these comments. As the agencies explained in the interim final rule, while section 164 required that State laws must provide for the impoundment or immobilization of, or the installation of an ignition interlock device on, motor vehicles, the statute was silent regarding the timing of these sanctions. Section 164 did not specify the length of time that these sanctions must remain in effect, or require that these sanctions must take place immediately at the time of arrest.

Moreover, the use of these sanctions is still a relatively new development in the field of impaired driving countermeasures. The agencies do not believe there are currently sufficient research findings to dictate a minimum period of time for these sanctions, in the absence of statutory direction. In addition, while States may choose to require the imposition of these sanctions at the time of the offender's arrest as part of their programs, the agencies do not believe we have sufficient information, in the absence of statutory direction, to make this a condition of compliance. Plus, we do not want to stifle innovation. The rule has been drafted, within the framework of the statute, to provide States with as much flexibility as possible, to enable them to establish the terms for conducting their programs in ways that are most appropriate under their own statutory schemes.

While a number of the commenters were concerned that States would be able to qualify under this criterion by impounding or immobilizing vehicles for only a day or even an hour, the agencies note that, to date, 11 States and the District of Columbia have demonstrated compliance with this section 164 criterion based on an impoundment or immobilization law, and no State law provides that vehicles (or the license plate or registration) will be impounded or immobilized for such an insignificant period of time. Although two States provide for a five-day minimum and one State requires a 30 day minimum impoundment or immobilization, all other States and the District of Columbia require that the impoundment or immobilization remain in effect for the duration of the license suspension or for a minimum of at least one year.

Regarding the installation of ignition interlock devices, the agencies recognize that a significant number of offenders continue to drive even after they lose their driving privileges, and that many of them choose not to reapply for a license even once they become eligible to do so. We recognize also that ignition interlock devices have been shown to be effective at reducing the incidence of impaired driving during their use. Accordingly, the agencies appreciate the sentiments expressed by a number of the commenters, who suggested that strategies be used to create an incentive for repeat offenders to drive only with a valid license and not to drink and drive. These commenters recommended that we permit States to restore restricted driving privileges to repeat intoxicated drivers and install ignition interlock devices on their vehicles prior to the completion of a one-year hard license suspension.

However, the agencies continue to conclude that such a strategy is not permitted under section 164, since the

statute specifically provides under the first criterion (discussed in detail above) that State laws must require that repeat intoxicated drivers receive a one-year suspension of *all* their driving privileges. In addition, we find that, while the installation of ignition interlocks has been shown to reduce the incidence of drinking and driving, other strategies (such as impoundment, immobilization or strict driving while suspended laws) may be more appropriate when seeking to prevent offenders whose licenses have been suspended from getting behind the wheel of a vehicle during their periods of suspension.

Morever, we note that, if States choose to install ignition interlock devices on offenders' vehicles prior to the end of the one-year license suspension, as an extra measure of protection against impaired driving, even though the offender should not be driving at all, the regulations will not prevent the States from doing so. However, to satisfy the one-year license suspension criterion of section 164, such States may not restore to these offenders any driving privileges during the one-year period. In addition, to satisfy the impoundment, immobilization or ignition interlock criterion of section 164, the ignition interlock devices must remain on the offenders' vehicles for some period of time after the license suspension has ended.

While some commenters were concerned that States would not be willing to adopt a law that provides for the installation of ignition interlock devices under the conditions established in the interim regulations, the agencies note that, to date, 12 States have demonstrated compliance with this section 164 criterion based on an ignition interlock law.

For all of the reasons discussed above, the agencies have adopted this portion of the interim regulations without change.

c. *All Vehicles Owned by the Offender.* The agencies indicated in the interim final rule that, in order to qualify under this criterion, each motor vehicle owned by the repeat intoxicated driver must be subject to one of the three penalties.

A number of comments were submitted to the agencies objecting to this feature of the rule. The comments raised two types of concerns. Some considered this requirement to be overly broad; others considered its scope not to be broad enough.

The commenters who considered the requirement to be overly broad called it ''unreasonably severe,'' ''unjustified'' and ''counter productive.'' Dr. Hedlund of Highway Safety North, for example, explained that ''State impoundment and immobilization laws typically apply to a single vehicle (the vehicle driven by the offender when the offense was committed), not to all vehicles owned by the offender'' and that ''State interlock programs typically require the offender to install an interlock on his (or her) primary vehicles and require the offender to drive only that vehicle.''

Dr. Hedlund, LifeSafer, NAGHSR and others expressed concern that such a strict application of this requirement could prove to be a disincentive to its adoption and use. In addition, the State of Wisconsin questioned whether the impoundment or seizure of all vehicles owned by an offender would raise constitutional issues. As an alternative, LifeSafer recommended that the ignition interlock sanction should be ''tied'' to the offender's license, rather than to the vehicles owned by the offender (*i.e.*, as a license restriction that provides that the offender may drive only vehicles on which ignition interlocks are installed). Finally, NAGHSR asserted that ''nothing in the legislative history of this provision indicates that Congress intended the sanctions to apply to every vehicle owned by the offender.''

Regarding the agencies' authority to require that these sanctions apply to every vehicle owned by the offender, the agencies have determined that inclusion of this requirement is not only supported by section 164's legislative history, but is required by the plain language of the statute itself. Section 164 provides specifically that repeat intoxicated offenders must ''be subject to the impoundment or immobilization of *each of the individual's motor vehicles* or the installation of an ignition interlock system on *each of the motor vehicles* [emphasis added].''

The agencies believe Congress established these requirements because, for repeat offenders, taking his or her vehicle at the time of arrest and placing an ignition interlock restriction on the offender's license may not be enough. Congress wanted to do more than get the attention of these offenders. Congress wanted States to take steps to prevent repeat intoxicated drivers from driving at all during their license suspension or from drinking and driving once their licenses were returned. If one of the offender's vehicles has been impounded or immobilized, but another vehicle is available at home, or if one of the offender's vehicles is fitted with an ignition interlock device and another is not, these objectives may not be achieved.

Moreover, the agencies note that, to date, 25 States and the District of Columbia have been determined to comply with this criterion, by applying either an impoundment, immobilization or the installation of ignition interlock devices on all motor vehicles owned by repeat intoxicated drivers.

The commenters who considered the requirement not to be broad enough were concerned that offenders could avoid these sanctions by using a variety of ''loopholes.'' Dr. Hedlund of Highway Safety North, MADD and the State of Michigan, for example, were concerned that offenders could transfer title to their vehicles after arrest and prior to conviction; the State of Wisconsin suggested that offenders could register vehicles using the names of friends or family members, or other aliases; and MADD was concerned that offenders could operate vehicles that are ''owned'' by other people.

Section 164 did not require that State laws address these particular issues, and the agencies have not expanded this criterion by adding any such requirements. The agencies note, however, that some States have enacted laws that surpass the minimum requirements established in section 164, and include provisions that have the potential to ''close'' some of these ''loopholes.'' Some States, for example, apply their vehicle sanctions not only to vehicles ''owned'' by the repeat offender, but also to vehicles ''operated'' by such offender. Other State laws contain provisions that specifically prohibit offenders from transferring title to their vehicles. States that choose to include in their laws similar provisions, which exceed the section 164 requirements, are able (and encouraged) to do so, but such provisions are not necessary for the State to demonstrate compliance with the impoundment, immobilization or ignition interlock criterion.

For the reasons discussed above, this portion of the interim regulations has been adopted without change.

d. *Exceptions Permitted.* In the interim final rule, the agencies explained that, consistent with past practices under the section 410 program, the agencies will permit States to provide limited exceptions to the impoundment or immobilization requirements on an individual basis, to avoid undue hardship to an individual, including a family member of the repeat intoxicated driver, or a co-owner of the motor vehicle, but not including the repeat intoxicated driver. However, the agencies decided not to permit an exception to the installation of the ignition interlock system requirement.

The interim final rule explained that the agencies believe that an exception to the requirement that an ignition interlock system be installed is not necessary, since the requirement does not prevent a motor vehicle from being available for others dependent on that vehicle. It only prevents an individual from operating the vehicle under the influence of alcohol.

Comments regarding this portion of the interim regulations suggested that additional exceptions should be permitted. NAGHSR, NCSL and the States of Delaware, Michigan and Wisconsin emphasized that the imposition of an impoundment or immobilization or the installation of ignition interlock devices can be very costly to offenders and their families. Not only do these sanctions cause vehicles to be unavailable, but there are also administrative costs associated with the sanctions. The commenters asserted that these costs can result in an undue financial hardship for many families.

In addition, NAGHSR and LifeSafer both asserted that there is a need for an employer exception. LifeSafer explained that, in States where the ignition interlock device is tied to a restriction on the license, States ''have recognized the need for an employer exemption that allows the offender to operate an employer vehicle in the course and scope of employment without the [ignition interlock device]'' so long as certain conditions are met. LifeSafer states that the exemption is necessary ''to avoid undue hardship on an employer.''

NAGHSR and LifeSafer indicated that the employer exception they seek is needed if the ignition interlock device is tied to a restriction on the offender's license. Since section 164 requires that the installation of ignition interlocks must be tied to all vehicles owned by the offender, and not to the offender's driver's license, the agencies believe the employer exception sought by NAGHSR and LifeSafer is not needed. Accordingly, the agencies have not added an employer exception to the regulations.

Based on the concerns raised in the comments regarding the financial hardship that families may suffer due to the administrative expenses that may be imposed in connection with the installation of ignition interlock devices on each vehicle owned by the offender, however, the agencies have reconsidered their decision to not permit a hardship exception to the ignition interlock sanction.

Accordingly, the interim regulations have been modified in this final rule to add an exception to the ignition interlock requirement. A State may provide an exception to the ignition interlock requirement for financial hardship, provided the State law requires that the offender may not drive a vehicle without an ignition interlock system, such as by requiring that a restriction be placed on the offender's license.

To ensure that the availability of these exceptions do not undermine the impoundment, immobilization or ignition interlock requirements, exceptions must be made in accordance with Statewide published guidelines developed by the State, and in exceptional circumstances specific to the offender's motor vehicle.

e. *Other Comments Related to the Sanctions.* The interim regulations provided that ''impoundment or immobilization'' included ''the removal of a motor vehicle from a repeat intoxicated driver's possession or the rendering of a repeat intoxicated driver's motor vehicle inoperable.'' The interim regulations provided that these terms include also ''the forfeiture or confiscation of a repeat intoxicated driver's motor vehicle or the revocation or suspension of a repeat intoxicated driver's motor vehicle license plate or registration.''

LifeSafer objected to this aspect of the interim regulations. According to LifeSafer, ''physically revoking the license plate or canceling the registration is not anywhere near as strong a message of physically taking or rendering incapable the operation [of] a motor vehicle. Secondly, the sanction is rendered ineffective because another license plate can be quickly obtained or transferred from another vehicle or the vehicle re-registered under another name.''

The agencies find, based on studies conducted in Minnesota and Ohio, that the research demonstrates that the revocation or suspension of vehicle registrations and license plates is an effective sanction. In fact, NHTSA has encouraged States to impose such a sanction on repeat offenders and individuals who drive with a suspended driver's license, under its section 410 program since 1992. Moreover, the agencies are not aware of any research findings that demonstrate a significant difference in effectiveness between the impoundment or immobilization of a motor vehicle as compared with the revocation or suspension of a vehicle registration or license plate. In the absence of any such findings, the agencies prefer to provide the States with some flexibility in this regard.

Finally, NAGHSR recommended in its comments that ignition interlocks should be used as part of a comprehensive, interrelated system, such as one under which the driver's license of the offender is suspended and the offender's vehicle is impounded or immobilized for a short period (*e.g.,* 15–30 days), at the time of arrest. Once that period of time passes, limited driving privileges are restored, the vehicle may be reclaimed and an ignition interlock is installed. Then, when the offender participates and completes treatment, the ignition interlock is removed.

The agencies appreciate the objectives that NAGHSR seeks to meet by suggesting such an approach, and we note that States may take this type of approach, if they wish to do so, when fashioning sanctions for first offenders. However, as stated previously in this final rule, such an approach would not be permitted under section 164 for repeat offenders. Under such an approach, a repeat intoxicated driver would be permitted to receive driving privileges during the initial one-year driver's license suspension period, and the statutory language contained in section 164 specifically requires that *all* driving privileges must be suspended for a period of one year. Accordingly, the agencies are unable to address this comment without an amendment to the underlying statute.

Accordingly, no changes will be made to the interim regulations in response to these particular comments.

3. An Assessment of Their Degree of Alcohol Abuse, and Treatment as Appropriate

Section 164 provides that, to avoid the transfer of funds, the State must have a law that requires that all repeat intoxicated drivers must receive ''an assessment of the individual's degree of abuse of alcohol and treatment as appropriate.'' In the interim final rule, the agencies specified further that the State's law must require that all repeat intoxicated drivers must undergo an alcohol assessment and the law must authorize the imposition of treatment as appropriate.

The agencies received comments regarding this criterion from LifeSafer, NAGHSR, MADD, the State of Delaware and Dr. Voas. Both NAGHSR and LifeSafer indicated that they are aware that there are some States that provide for mandatory treatment of repeat intoxicated offenders, but may not require that these offenders be assessed. In their view, since the treatment is provided automatically, these States should be considered to be fully in

compliance with the assessment and treatment requirement.

It is the view of the agencies that, if a State provides for mandatory treatment of repeat intoxicated offenders and the State's mandatory treatment program includes a mandatory assessment component, such a program will enable the State to demonstrate compliance with the section 164 assessment and treatment criterion. If assessments are not conducted of all repeat offenders as part of such a program, however, the agencies will find that the State's program does not fully comply. This decision is based on the agencies' conclusion that the purpose of the assessment is to determine not only whether an offender should undergo treatment, but also what type and level of treatment is appropriate for that offender. Programs that assign treatment to offenders without first assessing the needs of those offenders may be ineffective in resolving any alcohol abuse problems that the offenders may have. The agencies note that, in addition to the District of Columbia and the 23 States that meet all of the section 164 requirements, at least 10 additional States meet the assessment and treatment criterion.

The agencies received comments also from MADD, the State of Delaware and Dr. Voas regarding this criterion. According to their statements, these commenters do not believe the agencies went far enough in the interim regulations when we provided that the State's law ''must authorize the imposition of treatment as appropriate.'' These commenters urged the agencies instead to require that States make treatment mandatory. MADD, for example, stated that, ''while the rule requires mandatory alcohol assessment, there is no requirement that treatment is mandatory even when the results of the assessment calls for treatment.'' Dr. Voas explained why he thought such a requirement should be adopted. He asserted that ''the value of assessment is entirely dependent on the offender receiving the treatment.''

As the agencies indicated in the interim final rule, there is a wide array of programs and activities that can be used to treat offenders who have alcohol abuse problems. Because of the many options available, the agencies believe it would be difficult to establish a specific requirement in the regulations that would have meaning, and also provide the States and their judicial systems with the flexibility they need to have the greatest impact.

In his comments, Dr. Voas took particular issue with a statement that was included in the preamble to the interim final rule, in which the agencies said that, ''to qualify under this criterion, the State law must make it mandatory for the repeat intoxicated driver to undergo an assessment, but the law need not impose any particular treatment (or any treatment at all).'' The agencies wish to clarify that, the agencies did not mean to imply by this statement that States should not refer individuals to treatment if treatment is warranted. Since the Section 164 requirements provide that all repeat intoxicated drivers must be assessed, we trust that the court systems will refer those offenders to treatment when warranted, and that offenders will be referred to the treatment that is most appropriate. Since the statement to which Dr. Voas objected was in the preamble to the rule, and not the interim regulations themselves, no regulatory changes are needed in this final rule to clarify this statement.

For the reasons discussed above, this portion of the interim regulations has been adopted without change.

4. Mandatory Minimum Sentence

Section 164 provides that, to avoid a transfer of funds, the State must have a law that imposes a mandatory minimum sentence on all repeat intoxicated drivers. For a second offense, the law must provide for a mandatory minimum sentence of not less than five days of imprisonment or 30 days of community service. For a third or subsequent offense, the law must provide for a mandatory minimum sentence of not less than ten days of imprisonment or 60 days of community service.

The agencies explained in the interim final rule that, consistent with NHTSA's administration of the section 410 program, the term ''imprisonment'' has been defined to include ''confinement in a jail, minimum security facility, community corrections facility, * * * inpatient rehabilitation or treatment center, or other facility, provided the individual under confinement is in fact being detained.'' In addition, we indicated in the interim final rule that house arrests would be included within the definition of ''imprisonment'' under the section 164 program, provided that electronic monitoring is used.

We received five comments in response to the interim final rule regarding this criterion. Most of the comments received related to the agencies' decision to include house arrests within the definition of imprisonment.

MADD and Dr. Voas objected to its inclusion. They argued that a house arrest for a period of only five or ten days is not a sufficiently strong penalty. MADD, for example, asserted ''House arrest does not carry with it the specific deterrence or social stigma that incarceration in a jail facility does.'' According to MADD, such a penalty ''will have little or no impact on reducing recidivism which is the very purpose of this legislation.''

Conversely, LifeSafer, NAGHSR and Advocates supported the inclusion of house arrest, coupled with electronic monitoring, within the definition of the term imprisonment. LifeSafer ''applauded'' this decision based on its belief that ''jail is the least effective sanction to reduce recidivism, States have severe jail overcrowding problems * * * [and] studies which indicate electronic monitoring has an impact greater than jail on reducing recidivism.'' NAGHSR called this aspect of the interim rule the ''most positive attribute of the interim final regulations.'' According to Advocates, ''although the historic use of the word imprisonment entails confinement in a traditional prison facility, we agree with the agencies that non-traditional approaches and the use of technological advancements should be utilized in attempt to make inroads against repeat intoxicated offenders. In this regard it is clear that courts are using home confinement and monitoring as an alternative means of detaining criminal offenders.''

As noted in the interim final rule, recent NHTSA research seems to indicate that house arrests are effective if they are coupled with electronic monitoring. While the agencies recognize that the periods of house arrest studied tended to be longer than five or ten days, we consider this alternative means of detaining offenders to be a promising strategy that should not be stifled under the provisions of these regulations. Accordingly, the agencies have decided to continue to permit States to use house arrest, coupled with electronic monitoring, in lieu of other confinement methods.

Dr. Voas suggested in his comments that, if the use of house arrest is permitted under the regulations, the State should extend the period of detention from five or ten days to a period of 90 days. The agencies do not find authority for establishing such an alternative length of time in the section 164 statute. Accordingly, we have not adopted this change in the regulations.

Finally, NCSL pointed out that many States have, over the years, enacted mandatory minimum sentences for repeat intoxicated drivers, in response to the Federal requirements that were established in the section 410 program.

However, since section 164 requires States to establish a longer mandatory sentence (five and ten days, rather than 48 hours), even these States will need to enact new legislation. The agencies agree with NCSL's observation. However, these longer sentencing requirements are dictated by the statute.

This portion of the interim regulations has been adopted without change.

E. Certifications

The interim final rule provided that, to avoid a transfer of funds, each State must submit a certification demonstrating compliance with the four section 164 criteria, which includes citations to all applicable provisions of their laws, as well as regulations or case law, as needed. The certifications must also assert that the State is enforcing its law. According to the interim final rule, once a State has been determined to be in compliance with the section 164 requirements, the State would not be required to resubmit certifications in subsequent fiscal years, unless the State's law had changed or the State had ceased to enforce its repeat intoxicated driver law. The interim final rule provided that it is the responsibility of each State to inform the agencies of any such change in a subsequent fiscal year, by submitting an amendment or supplement to its certification.

The interim final rule provided further that, to avoid a transfer in FY 2001, the agencies must receive a State's certification no later than September 30, 2000, and the certification must indicate that the State ''has enacted and is enforcing a repeat intoxicated driver law that conforms to 23 U.S.C. 164 and [the agencies' implementing regulations].'' States found in noncompliance with the requirements in any fiscal year, once they have enacted complying legislation and are enforcing the law, must submit a certification to that effect before the following fiscal year to avoid a transfer of funds in that following fiscal year. The interim rule indicated that such certifications must be submitted by October 1 of the following fiscal year.

In its comments in response to the interim final rule, Advocates recommended that States should be required to submit more than a certification to demonstrate that they are enforcing their repeat intoxicated driver laws. Advocates stated, ''while the agencies need not require burdensome evidence of such enforcement, some indicia that a good faith effort is being made to enforce the repeat offender law should be sought. Since convictions and penalties imposed under such a law are relatively simple to establish through computerized records, the agencies can require some indicia as to the level of state enforcement without imposing significant burdens on the states.''

The agencies have not adopted this change. While there may be information in computerized records that States would be able to compile and submit to the agencies, we are uncertain how such a sufficient ''level of enforcement'' would be defined. Moreover, we find that the benefit of such a reporting requirement would not justify the effort that would be required.

Although the agencies did not receive any comments regarding the dates by which certifications must be submitted, we have concluded that this feature of the regulations requires clarification. The interim final rule provided that conforming certifications were due by September 30 to avoid a transfer of funds in FY 2001, and that certifications from States that did not previously comply with section 164 were due by October 1 to avoid a transfer of funds in subsequent fiscal years. To avoid confusion, the agencies have concluded that the same date should apply in any fiscal year. Accordingly, the regulations have been changed to provide that, to avoid a transfer of funds in FY 2001 or in any subsequent fiscal year, States will be required to submit certifications by September 30.

In addition, some States enacted conforming laws prior to September 30, 2000, but their new laws will not be effective until the next day, on October 1, 2000. The interim rule, which requires States to assert that they are already enforcing their laws on September 30, did not anticipate this occurrence. The agencies have determined that a conforming law that becomes effective on October 1 will enable a State to avoid a transfer of funds on that date. Accordingly, the agencies have amended the regulations to enable these States to certify that they have enacted a repeat intoxicated driver law that conforms to 23 U.S.C. 164 and the agencies' implementing regulations, and that the law will become effective and be enforced by October 1 of the following fiscal year.

F. Transfer of Funds

As explained in the interim final rule, section 164 provides that the Secretary must transfer a portion of a State's Federal-aid highway funds apportioned under sections 104(b)(1), (3), and (4) of Title 23 of the United States Code, for the National Highway System, Surface Transportation Program and Interstate System, to the State's apportionment under section 402 of that title, if the State does not meet certain statutory requirements.

The interim rule indicated that, in accordance with the statute, the amount to be transferred from a non-conforming State will be calculated based on a percentage of the funds apportioned to the State under each of sections 104(b)(1), (3) and (4). However, the actual transfers need not be drawn evenly from these three sources. The transferred funds may come from any one or a combination of the apportionments under sections 104(b)(1), (3) and (4), as long as the total amount meets the statutory requirement.

One commenter noted that the interim rule did not specify which State agency has authority to decide from which category funds should be transferred. The agencies believe that, because the decision concerning which of the three highway apportionments should lose funds solely affects State Department of Transportation (DOT) programs, the State DOT should have authority to inform the FHWA of any changes in distribution. The agencies have added language to the final rule, in the section on Transfer of Funds, indicating that on October 1, the FHWA will make the transfers based on a proportionate amount, then the State's Department of Transportation will be given until October 30 to notify the FHWA if they would like to change the distribution among sections 104(b)(1), (3) and (4).

The interim rule indicated that the funds transferred to section 402 could be used for alcohol-impaired driving countermeasures or directed to State and local law enforcement agencies for the enforcement of laws prohibiting driving while intoxicated, driving under the influence or other related laws or regulations. In addition, the interim final rule indicated that States may elect to use all or a portion of the transferred funds for hazard elimination activities under 23 U.S.C. 152.

NAGHSR, Michigan, Delaware and NCSL noted that the interim final rule did not specify which State agency has the authority to determine how transferred funds should be used. NAGSHR stated that ''it is unclear whether these decisions are state department of transportation decisions, state highway safety office decisions, or both.'' Michigan suggested that ''it should be made clear that all affected state agencies are to participate, and that states' decisions may be guided by the traffic safety benefit returned by the investment.''

The agencies have determined that all of the affected State agencies should participate in deciding how transferred funds should be directed. Accordingly, the agencies have added language to the section on Use of Transferred Funds

specifying that both the State DOT, which will ''lose'' the funds, and the State Highway Safety Office (SHSO), which will ''gain'' the funds must decide jointly.

The State DOT and SHSO officials will provide written notification of their funding decisions to the agencies, within 60 days of the transfer, identifying the amounts of apportioned funds to be obligated to alcohol-impaired driving programs, hazard elimination programs, and related planning and administration costs allowable under section 402. This process will permit account entries to be made. Joint decision making by the DOT and SHSO is the same process required by NHTSA and the FHWA for other TEA 21 programs in which Congress authorized flexible highway safety/highway construction funding choices—the section 157 Seat Belt Use Incentive Grant Program, the section 163.08 BAC *Per Se* Incentive Program and the section 154 Open Container Transfer Program.

IV. Regulatory Analyses and Notices

A. Executive Order 12778 (Civil Justice Reform)

This final rule will not have any preemptive or retroactive effect. The enabling legislation does not establish a procedure for judicial review of final rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

B. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The agencies have determined that this action is not a significant action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation Regulatory Policies and Procedures. States can choose to enact and enforce a repeat intoxicated driver law, in conformance with Pub. Law 105–206, and thereby avoid the transfer of Federal-aid highway construction funds. Alternatively, if States choose not to enact and enforce a conforming law, their funds will be transferred, but not withheld. Accordingly, the amount of funds provided to each State will not change.

In addition, the costs associated with this rule are minimal and are expected to be offset by resulting highway safety benefits. The enactment and enforcement of repeat intoxicated driver laws should help to reduce impaired driving, which is a serious and costly problem in the United States. Accordingly, further economic assessment is not necessary.

C. Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. Law 96–354, 5 U.S.C. 601–612), the agencies have evaluated the effects of this action on small entities. This rulemaking implements a new program enacted by Congress in the TEA 21 Restoration Act. As the result of this new Federal program and the implementing regulations, States will be subject to a transfer of funds if they do not enact and enforce repeat intoxicated driver laws that provide for certain specified mandatory penalties. This final rule will affect only State governments, which are not considered to be small entities as that term is defined by the Regulatory Flexibility Act. Thus, we certify that this action will not have a significant impact on a substantial number of small entities and find that the preparation of a Regulatory Flexibility Analysis is unnecessary.

D. Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35, as implemented by the Office of Management and Budget (OMB) in 5 CFR part 1320.

E. National Environmental Policy Act

The agencies have analyzed this action for the purpose of the National Environmental Policy Act, and have determined that it will not have a significant effect on the human environment.

F. The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. Law 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of final rules that include a Federal mandate likely to result in the expenditure by the State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. In the interim final rule, the agencies indicated that the section 164 program did not meet the definition of a Federal mandate, because the resulting annual expenditures were not expected to exceed $100 million and because the States were not required to enact and enforce a conforming repeat intoxicated driver law.

NCSL asserted that the rule will result in an unfunded mandate. It stated that ''the total cost to the states to enforce these repeat offender laws will exceed one hundred million dollars in cost.'' NCSL noted that the UMRA requires agencies to prepare a written assessment of the anticipated costs and benefits of any unfunded Federal mandate and that NHTSA failed to do so. NCSL asserted also that NHTSA failed to consult with State officials to determine the financial and political ramifications of this regulatory proposal.

The agencies have determined that the rule will not result in an unfunded mandate because the section 164 program is optional to the States. States may choose to enact and enforce a conforming repeat intoxicated driver law and avoid the transfer of funds altogether. Alternatively, if States choose not to enact and enforce a conforming law, funds will be transferred, but no funds will be withheld from any State. Moreover, the agencies do not believe that the resulting cost to States from implementing conforming laws will be over $100 million. Prior to the passage of TEA 21, States already had enacted and were enforcing repeat intoxicated driver laws. Some of these States have amended their laws to conform to the new section 164 requirements, but such changes will not result in expenditures of over $100 million. For States that have amended their repeat intoxicated driver laws, the cost to enact such amendments will be minimal. There may be some costs to provide training to law enforcement or other officials or to educate the public about these changes, but these costs are not likely to be significant.

In the interim final rule, the agencies recommended that States incorporate into their enforcement efforts activities designed to inform law enforcement officers, prosecutors, members of the judiciary and the public about their repeat intoxicated driver laws. In addition, the agencies advised States to take steps to integrate their repeat intoxicated driver enforcement efforts into their enforcement of other impaired driving laws. If States take these steps, the cost to enforce such laws would likely be absorbed into the State's overall law enforcement budget because the States would not be required to conduct separate enforcement efforts to enforce their repeat intoxicated driver laws.

Accordingly, the agencies have determined that it is not necessary to prepare a written assessment of the costs and benefits, or other effects of the rule.

G. Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and

criteria contained in Executive Order 13132, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. Accordingly, a Federalism Assessment has not been prepared.

List of Subjects in 23 CFR Part 1275

Alcohol and alcoholic beverages, Grant programs—transportation, Highway safety.

In consideration of the foregoing, the interim final rule published in the **Federal Register** of October 19, 1998, 63 FR 55796, is adopted as final, with the following changes:

PART 1275—REPEAT INTOXICATED DRIVER LAWS

1. The authority citation for part 1275 continues to read as follows:

Authority: 23 U.S.C. 164; delegation of authority at 49 CFR 1.48 and 1.50.

2. Section 1275.3 is amended by revising paragraphs (c) and (k) to read as follows:

§ 1275.3 Definitions.

* * * * *

(c) *Driving while intoxicated* means driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State, or an equivalent non-BAC intoxicated driving offense.

* * * * *

(k) *Repeat intoxicated driver* means a person who has been convicted of driving while intoxicated or driving under the influence of alcohol more than once in any five-year period.

* * * * *

3. In § 1275.4, paragraph (b)(2) is redesignated as paragraph (b)(3) and a new paragraph (b)(2) is added to read as follows:

§ 1275.4 Compliance criteria.

* * * * *

(b) * * *

(2) A State may provide limited exceptions to the requirement to install an ignition interlock system on each of the offender's motor vehicles, contained in paragraph (a)(2)(iii) of this section, on an individual basis, to avoid undue financial hardship, provided the State law requires that the offender may not operate a motor vehicle without an ignition interlock system.

* * * * *

4. Section 1275.5 is amended by revising paragraph (b) to read as follows:

§ 1275.5 Certification requirements.

* * * * *

(b) The certification shall be made by an appropriate State official, and it shall provide that the State has enacted and is enforcing a repeat intoxicated driver law that conforms to 23 U.S.C. 164 and § 1275.4 of this part.

(1) If the State's repeat intoxicated driver law is currently in effect and is being enforced, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of _____, do hereby certify that the (State or Commonwealth) of _____, has enacted and is enforcing a repeat intoxicated driver law that conforms to the requirements of 23 U.S.C. 164 and 23 CFR 1275.4, (citations to pertinent State statutes, regulations, case law or other binding legal requirements, including definitions, as needed).

(2) If the State's repeat intoxicated driver law is not currently in effect, but will become effective and be enforced by October 1 of the following fiscal year, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of _____, do hereby certify that the (State or Commonwealth) of _____, has enacted a repeat intoxicated driver law that conforms to the requirements of 23 U.S.C. 164 and 23 CFR 1275.4, (citations to pertinent State statutes, regulations, case law or other binding legal requirements, including definitions, as needed), and will become effective and be enforced as of (effective date of the law).

* * * * *

5. Section 1275.6 is amended by adding paragraph (c) to read as follows:

§ 1275.6 Transfer of funds.

* * * * *

(c) On October 1, the transfers to section 402 apportionments will be made based on proportionate amounts from each of the apportionments under 23 U.S.C. 104(b)(1),(b)(3) and (b)(4). Then the States will be given until October 30 to notify FHWA, through the appropriate Division Administrator, if they would like to change the distribution among 23 U.S.C. 104(b)(1),(b)(3) and (b)(4).

6. Section 1275.7 is amended by redesignating paragraphs (c) through (f) as paragraphs (d) through (g), and by adding a new paragraph (c) to read as follows:

§ 1275.7 Use of transferred funds.

* * * * *

(c) The Governor's Representative for Highway Safety and the Secretary of the State's Department of Transportation for each State shall jointly identify, in writing to the appropriate NHTSA Administrator and FHWA Division Administrator, how the funds will be programmed among alcohol-impaired driving programs, hazard elimination programs, and planning and administration costs, no later than 60 days after the funds are transferred.

* * * * *

Issued on: September 28, 2000.

Kenneth R. Wykle,

Administrator, Federal Highway Administration.

Dr. Sue Bailey,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 00–25384 Filed 9–29–00; 3:34 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 66

[USCG 2000–7466]

RIN 2115–AF98

Allowing Alternatives to Incandescent Light in Private Aids to Navigation

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule.

SUMMARY: The Coast Guard is removing the requirement to use only tungsten-incandescent lighting for private aids to navigation. It will enable private industry and owners of private aids to navigation to take advantage of recent changes in lighting technology-specifically to use lanterns based on light-emitting diodes (LEDs). The greater flexibility will reduce the consumption of power and simplify the maintenance of private aids to navigation.

DATES: This direct final rule is effective January 3, 2001, unless a written adverse comment, or written notice of intent to submit one, reaches the Docket Management Facility on or before December 4, 2000. If an adverse comment, or notice of intent to submit one, does reach the Facility on or before then, the Coast Guard will withdraw this rule and publish a timely notice of withdrawal in the **Federal Register**.

ADDRESSES: You may mail your comments or notices of intent to submit them to the Docket Management Facility [USCG 2000–7466], U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington DC 20590–0001, or deliver them to room PL–401 on the Plaza level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, 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 at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this direct final rule, call Dan Andrusiak, G–OPN–2, Coast Guard, telephone 202–267–0327. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief of Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [USCG 2000–7466] and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the Docket Management Facility at the address under **ADDRESSES.** Persons wanting acknowledgment of receipt of comments should enclose stamped self-addressed postcards or envelopes.

Regulatory Information

The Coast Guard is publishing a direct final rule, the procedures for which appear in 33 CFR 1.05–55, because it anticipates no adverse comment. If no adverse comment or written notice of intent to submit one reaches the Docket Management Facility within the comment period specified in DATES, this rule will become effective as indicated. In that case, about 30 days before the effective date, the Coast Guard will publish a document in the **Federal Register** indicating that it received no adverse comment or written notice of intent to submit one and confirming that this rule will become effective as scheduled. However, if the Coast Guard receives a written adverse comment or written notice of intent to submit one, it will publish a document in the **Federal Register** announcing withdrawal of all or part of this rule (*e.g.*, an amendment, a paragraph, or a section). If an adverse comment applies to only part of this rule and if removal of that part is possible without defeating the purpose of this rule, the Coast Guard may adopt as final those parts of this rule unaffected by the comment and withdraw the others. If the Coast Guard decides to proceed with a rulemaking following receipt of an adverse comment, it will publish a separate Notice of Proposed Rulemaking (NPRM) and provide a new opportunity for comment.

A comment is considered ''adverse'' if it explains why this rule would be inappropriate; including a challenge to the rule's underlying premise or approach, or why it would be ineffective or unacceptable without a change.

Background and Purpose

The Marine Safety Council of the Coast Guard recommended this rulemaking. The intent of the rule is to reduce the consumption of power and simplify the maintenance of private aids to navigation by allowing for the use of lanterns based on LEDs as well as on tungsten-incandescent lights.

Discussion of Rule

The Coast Guard will allow private industry and owners of private aids to navigation to take advantage of recent changes in lighting technology—specifically the use of lanterns based on LEDs.

Regulatory Evaluation

This direct final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) [44 FR 11040 (February 26, 1979)]. The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is not necessary.

Cost of Rule

This direct final rule would not impose any costs on the public. While it permits the use of lanterns based on LEDs as well as tungsten-incandescent lights, it does not require it.

Manufacturers of tungsten-incandescent lights also provide LED lights. This rule would not impose any costs on these manufacturers; it would instead expand a market for the LED lights they are already manufacturing.

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], the Coast Guard considered whether this direct final rule would 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 of less than 50,000. The Small Business Administration (SBA) has set up size standards for each SIC code based on the number of employees or annual receipts. The only type of small entity that this rule would affect would be small businesses.

The Coast Guard performed a survey of the industry, and discovered that there are currently two major U.S. manufacturers of tungsten-incandescent lights used for aids to navigation. One of them is considered small by the size standards set up by the SBA. However, the impact of this rule would be positive because it would open new markets for other small business manufacturers who currently possess LED technology.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. It will evaluate comments submitted in response to this finding under the criteria in *Regulatory Information.*

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 direct final rule so that they can better evaluate its effect 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 call Dan Andrusiak, G–OPN–2, Coast Guard, telephone 202–267–0327.

Collection of Information

This direct final rule 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 direct final rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this direct final rule and concluded that, under figure 2–1, paragraph (34)(i) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A Determination of Categorical Exclusion is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 66

Navigation (water).

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 66 as follows:

1. The citation of authority continues to read as follows:

Authority: 14 U.S.C. 83, 85; 43 U.S.C. 1333; 49 CFR 1.46.

2. Section 66.01–10 is revised to read as follows:

§ 66.01–10 Characteristics.

The characteristics of a private aid to navigation must conform to the United States Aids to Navigation System described in subpart B of Part 62 of this subchapter, except that the Coast Guard will approve both tungsten-incandescent lights and light-emitting diodes (LEDs) with a flash length of at least 0.2 seconds, as sources of light for electric lanterns.

Dated: September 26 2000.

Kenneth T. Venuto,

U.S. Coast Guard, Acting Assistant Commandant for Operations.

[FR Doc. 00–25484 Filed 10–3–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[GGD07–00–092]

Drawbridge Operation Regulations; CSX Railroad Bridge (South Fork of the New River), Ft. Lauderdale, Broward County, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the CSX Railroad Drawbridge across the South Fork of the New River, mile 2.8, Ft. Lauderdale, Broward County, Florida. This deviation allows the drawbridge owner not to open for vessel traffic. This temporary deviation is required October 7, 2000 from 6:00 a.m. until 12:00 p.m., to allow the bridge owner to safely complete repairs to the drawbridge.

DATES: This deviation is effective on October 7, 2000, from 6:00 a.m. until 12:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Section at (305) 415–6743.

SUPPLEMENTARY INFORMATION: The CSX Railroad Drawbridge across the South Fork of the New River at Ft. Lauderdale, has a vertical clearance of 2 feet above mean high water (MHW) measured at the fenders in the closed position. On July 11, 2000 the owner, requested a deviation from the current operating regulation in 33 CFR 117.5 which requires the drawbridge to open promptly and fully when a request to open is given. This temporary deviation was requested to allow necessary repairs to the drawbridge in a critical time sensitive manner.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.5 for the purpose of repair completion of the drawbridge. Under this deviation, the CSX Railroad Drawbridge (South Fork of the New River) need not open. The deviation is effective on October 7, 2000 from 6:00 a.m. until 11:59 p.m.

Dated: September 22, 2000.

G.E. Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 00–25486 Filed 10–3–00; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–00–097]

Drawbridge Operation Regulations; Florida East Coast Railway Bridge, across the Okeechobee Waterway, mile 7.4, at Stuart, Martin County, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulation.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Florida East Coast Railway bridge across the Okeechobee Waterway, mile 7.4, Stuart, Martin County, Florida. This deviation allows the drawbridge owner or operator to not open the bridge for short periods of time, approximately 30 to 45 minutes in duration, from 7:00 until 4:00 pm from October 9, 2000 through October 12, 2000. This temporary deviation is required from October 9, 2000 until October 12, 2000, to allow the bridge owner to safely complete repairs of the bridge.

DATES: This deviation is effective from October 9, 2000 to October 12, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Section at (305) 415–6743.

SUPPLEMENTARY INFORMATION: The Florida East Coast Railway drawbridge across the Okeechobee Waterway at Stuart, has a vertical clearance of 7 feet above mean high water (MHW) measured at the fenders in the closed position and during construction will have a horizontal clearance of 50 feet. On September 8, 2000, Florida East Coast Railway, the drawbridge owner, requested a deviation from the current operating regulation in 33 CFR 117.5 which requires drawbridge to open promptly and fully when a request to open is given. This temporary deviation was requested to allow necessary repairs to the drawbridge in a critical time sensitive manner.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.35 for the purpose of repair completion of the drawbridge. Under this deviation, the Florida East Coast Railway Bridge need not open the bridge for short periods of time, approximately 30 to 45 minutes in duration. The deviation is effective for a period of 4 days beginning on October 9, 2000 and ending on October 12, 2000.

Dated: September 22, 2000.

Greg E. Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 00–25485 Filed 10–3–00; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AJ88

Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve

AGENCIES: Department of Defense, Department of Transportation (Coast Guard), and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: By statute, the monthly rates of basic educational assistance payable to reservists under the Montgomery GI Bill—Selected Reserve must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Selected Reserve for fiscal year 2000 (October 1, 1999, through September 30, 2000) are changed to show a 1.6% increase in these rates.

DATES:

Effective Date: October 4, 2000.

Applicability Date: The changes in rates are applied retroactively to conform to statutory requirements. For more information concerning the dates of application, see the **SUPPLEMENTARY INFORMATION** section.

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

SUPPLEMENTARY INFORMATION: Under the formula mandated by 10 U.S.C. 16131(b) for fiscal year 2000, the rates of basic educational assistance under the Montgomery GI Bill—Selected Reserve payable to students pursuing a program of education full time, three-quarter time, and half time must be increased by 1.6%, which is the percentage by which the total of the monthly Consumer Price Index-W for July 1, 1998, through June 30, 1999, exceeds the total of the monthly Consumer Price Index-W for July 1, 1997, through June 30, 1998.

10 U.S.C. 16131(b) requires that full-time, three-quarter time, and half-time rates be increased as noted above. In addition, 10 U.S.C. 16131(d) requires that monthly rates payable to reservists in apprenticeship or other on-the-job training must be set at a given percentage of the full-time rate. Hence, there is a 1.6% raise for such training as well.

10 U.S.C. 16131(b) also requires that the Department of Veterans Affairs (VA) pay reservists training less than half time at an appropriately reduced rate. Since payment for less than half-time training became available under the Montgomery GI Bill—Selected Reserve in fiscal year 1990, VA has paid less than half-time students at 25% of the full-time rate. Changes are made consistent with the authority and formula described in this paragraph.

Nonsubstantive changes also are made for the purpose of clarity.

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

Substantive 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.

The Secretary of Defense, the Commandant of the Coast Guard, and the Secretary of Veterans Affairs hereby certify 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.

Executive Order 12866

The Office of Management and Budget has reviewed this final rule under Executive Order 12866.

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.

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

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: March 24, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

Approved: April 28, 2000.

Charles L. Cragin,

Principal Deputy Assistant Secretary of Defense for Reserve Affairs.

Approved: April 25, 2000

F.L. Ames,

U.S. Coast Guard, Assistant Commandant for Human Resources.

For the reasons set out above, 38 CFR part 21, subpart L, is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart L—Educational Assistance for Members of the Selected Reserve

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

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), ch. 36, unless otherwise noted.

2. Section 21.7636 is amended by:

A. In paragraph (a)(3), removing ''September 30, 1998'' and adding, in its place, ''September 30, 1999''; and removing ''October 1, 1999'' and adding, in its place, ''October 1, 2000''.

B. Revising paragraph (a)(1), (a)(2) introductory text, and (a)(2)(i).

§ 21.7636 Rates of payment.

(a) * * *

(1) Except as otherwise provided in this section or in * 21.7639, the monthly rate of basic educational assistance payable for training that occurs after September 30, 1999, and before October 1, 2000, to a reservist pursuing a program of education is the amount stated in this table:

Training	Monthly rate
Full time	$255.00
¾ time	191.00
½ time	127.00
¼ time	63.75

(2) The monthly rate of basic educational assistance payable to a reservist for apprenticeship or other on-the-job training full time that occurs after September 30, 1999, and before October 1, 2000, is the rate stated in this table:

Training period	Monthly rate
First six months of pursuit of training	$191.25
Second six months of pursuit of training	140.25
Remaining pursuit of training	89.25

* * * * *

[FR Doc. 00–25488 Filed 10–3–00; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[WA–71–7146a; FRL–6879–6]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) approves the Thurston County, Washington PM–10 area maintenance plan and redesignation request from nonattainment to attainment as revisions to the Washington State Implementation Plan. PM–10 air pollution is suspended particulate matter with a diameter less than or equal to a nominal ten micrometers.

DATES: This direct final rule is effective on December 4, 2000 without further notice, unless EPA receives adverse comment by November 3, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Debra Suzuki, EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and State of Washington Department of Ecology, 300 Desmond Drive, PO Box 47600, Olympia, Washington 98504–7600.

FOR FURTHER INFORMATION CONTACT: Scott Downey, Office of Air Quality (OAQ–107), EPA, Seattle, Washington, (206) 553–0682.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Summary of Action

Environmental Protection Agency (EPA) approves the Thurston County PM–10 area maintenance plan and redesignation request from nonattainment to attainment as revisions to the Washington State Implementation Plan.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective December 4, 2000, without further notice unless the Agency receives adverse comments by November 3, 2000.

If the EPA receives adverse comments, then EPA will publish a **Federal Register** document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on December 4, 2000, and no further action will be taken on the proposed rule.

II. Supplementary Information

1. What Is the Purpose of This Rulemaking?

Today's rulemaking announces two actions being taken by EPA related to air quality in the State of Washington. These actions are taken at the request of the Governor of Washington in response to Clean Air Act (Act) requirements and EPA regulations.

First, EPA approves the PM–10 maintenance plan for the Thurston County nonattainment area and incorporates this plan into the Washington State Implementation Plan (SIP).

Second, EPA redesignates Thurston County from nonattainment to attainment for PM–10. This redesignation is based on validated monitoring data and projections of ambient concentrations made in the maintenance plan's demonstration. EPA believes the area will continue to meet the National Ambient Air Quality Standards for PM–10 for at least ten years beyond this redesignation, as required by the Act.

2. What Is a State Implementation Plan?

The Clean Air Act requires States to keep ambient concentrations of specific air pollutants below certain thresholds to provide an adequate margin of safety

for public health and welfare. These maximum concentrations are established by EPA and known as the National Ambient Air Quality Standards, or NAAQS.

The State's plan for attaining the NAAQS are outlined in its State Implementation Plan, or SIP. The SIP is a planning document that, when implemented, is designed to ensure the attainment of the NAAQS. Each State currently has a SIP in place, and the Act requires that SIP revisions be made periodically.

SIPs include the following: (1) Inventories of emissions from point, area, and mobile sources; (2) relevant statutes and regulations adopted by the state legislature and executive agencies; (3) air quality analyses that include demonstrations that adequate controls are in place to ensure the area will attain the NAAQS; and (4) contingency measures to be implemented if an area fails to attain or make reasonable progress toward attainment by the required date.

The SIP must be presented to the public in a hearing and approved by the Governor of the State or appointed designee prior to submittal to EPA. The approved SIP serves as the State's commitment to actions that will reduce or eliminate air quality problems. Once approved by EPA, the SIP becomes part of the Code of Federal Regulations and is Federally enforceable. Any subsequent changes must go through the formal SIP revision process specified in the Act.

Washington submitted their original SIP on January 28, 1972 and it was subsequently approved by EPA. The Thurston County PM–10 maintenance plan and redesignation request was submitted as a revision to the SIP on August 16, 1999. This revision is the subject of today's action.

3. What National Ambient Air Quality Standards Are Considered in Today's Rulemaking?

As stated previously, National Ambient Air Quality Standards (NAAQS) are safety thresholds for certain ambient air pollutants set by EPA to protect public health and welfare. Suspended particulate matter is one of these criteria air pollutants regulated by EPA by way of these health-based national standards.

Particulate matter causes adverse health effects by penetrating deep in the lung, aggravating the cardiopulmonary system. Children, the elderly, and people with asthma and heart conditions are the most vulnerable.

On July 1, 1987 (52 FR 24634), the Environmental Protection Agency (EPA) revised the National Ambient Air Quality Standards (NAAQS) for particulate matter with a new indicator that includes only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). (See 40 CFR 50.6).

The 24-hour primary PM–10 standard is 150 micrograms per cubic meter (μg/m^3), with no more than one expected exceedance per year. The annual primary PM–10 standard is 50 μg/m^3 expected annual arithmetic mean. The secondary PM–10 standards are identical to the primary standards.

4. What are the characteristics of the Thurston County airshed?

The Thurston County PM–10 area consists of the adjoining cities of Olympia, Lacey, and Tumwater, Washington. Geographically, the area is characterized by low rolling terrain with hills rising higher toward its southern and western boundaries. Land use is primarily residential and commercial with several office parks and very little industry. The surrounding hills trap pollutants during stable meteorological conditions that occur frequently in the late fall and winter.

Residential wood combustion is the largest source of PM–10 in the nonattainment area. Re-suspended road dust is also a significant, but smaller, source. All other sources are considered insignificant. The Thurston County PM–10 attainment plan, approved in 1993, identifies a 24-hour concentration of 286 μg/m^3 as representative of worst case PM–10 conditions before the use of any emission controls. For a discussion of the initial Thurston County PM–10 SIP see 58 FR 40056 (July 27, 1993). Because the health based standard is set at 150 μg/m^3, this clearly shows that Thurston County experienced severely impaired air quality prior to implementing the control strategy in the attainment plan. As presented in the maintenance demonstration, with implementation of the control strategy, modeling predicts maximum concentrations that are below the 24-hour NAAQS of 150 μg/m^3 through the year 2010.

5. What Is the Background Information for This Action?

On August 7, 1987 (52 FR 29383), EPA identified the Thurston County, Washington area as a PM–10 ''Group I'' area of concern, *i.e.,* an area with a 95% or greater likelihood of violating the PM–10 NAAQS and requiring substantial SIP revisions. Subsequent monitoring data and emission inventory estimates confirmed that the area experienced episodes where the 24-hour PM–10 NAAQS was exceeded, violating the health-based standard. The area was subsequently designated as a moderate PM–10 nonattainment area upon enactment of the Clean Air Act Amendments of 1990 (November 15, 1990).

Title I, section 107(d)(3)(D) of the Act as explained in detail in the General Preamble to Title I (57 FR 13498 (April 16, 1992) hereafter referred to as the General Preamble), allow the Governor of a State to request the redesignation of an area from nonattainment to attainment. Under a cover letter dated August 16, 1999, the State submitted a maintenance plan and redesignation request for the Thurston County PM–10 nonattainment area.

6. What Criteria Did EPA Use to Review of the Thurston County PM–10 Redesignation Request and Maintenance Plan?

The criteria used to review the redesignation request are derived from the Act, General Preamble, and the following policy and guidance memorandum from John Calcagni, September 4, 1992, *Procedures for Processing Requests to Redesignate Areas to Attainment.* Section 107(d)(3)(E) of the Act states that an area can be redesignated to attainment if the following conditions are met:

1. EPA has determined that the NAAQS have been attained.

2. The applicable implementation plan has been fully approved by EPA under section 110(k).

3. EPA has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions.

4. The State has met all applicable requirements for the area under section 110 and part D.

5. EPA has fully approved a maintenance plan, including a contingency plan, for the area under section 175A.

7. How Does the State Show That the Thurston County Area Has Attained the PM–10 National Ambient Air Quality Standard?

Demonstrating that an area has attained the PM–10 NAAQS involves submittal of ambient air quality data from an ambient air monitoring network representing peak PM–10 concentrations, which is recorded in the Aerometric Information Retrieval System (AIRS). The area must show that the average number of expected exceedances per year is less than or equal to one. (40 CFR 50.6) To make this determination, three consecutive years of complete ambient air quality,

collected in accordance with EPA methodologies, must be used.

There is one PM–10 ambient air quality monitoring site in Thurston County. The Olympic Air Pollution Control Agency (OAPCA) has operated this monitor, located at the Mt. View Elementary School, since November 1985.

The Washington State Department of Ecology submitted ambient air quality data and supporting documentation from this monitoring site for the 1985–1995 period demonstrating that the area has attained the PM–10 NAAQS. Also, supplemental data was submitted under separate cover by the Olympic Air Pollution Control Authority for 1996–1999. This air quality data was quality assured and entered into AIRS. These data are summarized in the following table:

TABLE 1: MT. VIEW PM–10 DATA (24 HR. AVERAGE μG/M^3)

Year	Maximum	2nd highest
1985	254	242
1986	193	179
1987	177	130
1988	169	120
1989	128	118
1990	141	86
1991	106	99
1992	102	78
1993	79	78
1994	77	63
1995	76	65
1996	55	53
1997	66	58
1998	54	46
1999	41	35

As shown above, an exceedance of the 24-hour NAAQS was not recorded at the Mt. View Elementary School site between 1989 and 1999. Also, the State has adequately demonstrated attainment of the 24-hour PM–10 NAAQS through the dispersion modeling and the attainment of the annual PM–10 NAAQS through emissions inventory comparison (this is discussed in greater detail later in this action). Thus, the area is considered in attainment of the PM–10 NAAQS, easily meeting the requirement of three consecutive years of clean data.

8. Does the Thurston County Nonattainment Area Have a Fully Approved Attainment Plan SIP?

Yes. Those States containing initial moderate PM–10 nonattainment areas were required to submit a SIP by November 15, 1991, which implemented reasonably available control measures (RACM) by December 10, 1993, and demonstrated attainment of the PM–10 NAAQS by December 31, 1994. The SIP for the area must be fully approved under section 110(k) of the Act, and must satisfy all requirements that apply to the area.

On July 27, 1993, (58 FR 40056), EPA approved the Thurston County PM–10 nonattainment area SIP originally submitted by the State on February 17, 1989, and supplemented on November 13, 1991.

9. Are the Improvements in Air Quality Permanent and Enforceable?

Yes. The State must be able to reasonably attribute the improvement in air quality to permanent and enforceable emission reductions. In making this showing, the State must demonstrate that air quality improvements are the result of actual enforceable emission reductions. This estimate should consider emission rates, production capacities, and other related information. The analysis should assume that sources are operating at permitted levels (or historic peak levels) unless evidence is presented that such an assumption is unrealistic.

The attainment plan and the maintenance plan identify residential wood combustion as the primary source of PM–10 emissions in the area, citing a 1986 aerosol characterization study. Chemical mass balance analysis of the filters collected at the Mt. View Elementary School show that woodsmoke contributes 80–95% of ambient PM–10 concentrations on the high pollution days analyzed. The State concluded that the most important control measures for achieving attainment are those that reduce emissions from residential wood combustion.

In response, Thurston County has implemented a residential wood burning curtailment program, a public education program, emission standards for new woodstoves, and restrictions on certain fuels since the submittal of the 1989 attainment plan SIP. The attainment demonstration (discussed in further detail below) clearly shows that these controls are responsible for the attainment of the NAAQS. The continued implementation of these and other controls in the maintenance plan will assure continued attainment of the NAAQS.

The State shows that the reduction of 136 μg/m^3 needed for attainment, or 6841 kg PM–10 emissions per day, is a result of implementing the federally enforceable control measures (see the Technical Support Document accompanying this **Federal Register** document for additional description of the control measures). Thus, the emission reductions responsible for attainment of the NAAQS are permanent and enforceable.

10. Has the State met all the Section 110 and Part D Planning Requirements Applicable to This Nonattainment Area?

Yes. The September 1992 Calcagni memorandum explains that for redesignation purposes a State must meet all of the applicable section 110 and part D planning requirements. Thus, EPA interprets the Act to mean that before EPA may approve a redesignation request, the applicable programs under section 110 and part D, that were due prior to the submittal of a redesignation request, must be adopted by the State and approved by EPA into the SIP. How the State has met these requirements is discussed in detail below.

11. How Does the State Meet Section 110 Requirements?

Section 110(a)(2) of the Act contains general requirements for nonattainment plans. These requirements include, but are not limited to, submittal of a SIP that has been adopted by the State after reasonable notice and public hearing; provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality; implementation of a permit program; provisions for part C—Prevention of Significant Deterioration (PSD) and part D—New Source Review (NSR) permit programs; criteria for stationary source emission control measures, monitoring, and reporting; provisions for modeling; and provisions for public and local agency participation. See the General Preamble for further explanation of these requirements.

For purposes of redesignation, the Washington SIP was reviewed to ensure that all requirements under the Act were satisfied. 40 CFR 52.2473, further evidences that the Washington SIP was approved under section 110 of the Act and found that the SIP satisfied all part D, Title I requirements (46 FR 45607, September 14, 1981).

12. How Does the State Meet Part D Requirements?

Part D consists of general requirements applicable to all areas which are designated nonattainment based on a violation of the NAAQS. The general requirements are followed by a series of subparts specific to each pollutant. All PM–10 nonattainment areas must meet the applicable general provisions of subpart 1 and the specific

PM–10 provisions in subpart 4, ''Additional Provisions for Particulate Matter Nonattainment Areas.'' The following paragraphs discuss these requirements as they apply to the Thurston County area.

13. How Does the State Meet the Section 172(c) Plan Provisions Requirements?

Section 172(c) contains general requirements for nonattainment plans. A thorough discussion of these requirements may be found in the General Preamble. EPA anticipates that areas will already have met most or all of these requirements to the extent that they are not superseded by more specific part D requirements. The requirements for reasonable further progress, identification of certain emissions increases, and other measures needed for attainment will not apply to redesignations because they only have meaning for areas not attaining the standard. The requirements for an emission inventory will be satisfied by the inventory requirements of the maintenance plan. The requirements of the part D New Source Review (NSR) program will be replaced by the part C Prevention of Significant Deterioration (PSD) program for PM–10 upon the effective date of this redesignation action. The Federal PSD regulations found in 40 CFR 52.21 are the PSD rules in effect in Washington.

14. How Does the State Meet Subpart 4 Requirements?

The Thurston County area is classified as a moderate nonattainment area. Therefore, part D, subpart 4, section 189(a) requirements apply. The requirements which came due prior to the submission of the request to redesignate the Thurston County area must be fully approved into the SIP before redesignating the area to attainment. These requirements are discussed below:

(a) Provisions to assure that RACM shall be implemented by December 10, 1993;

(b) Either a demonstration that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

(c) Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

(d) Provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area.

As previously stated, EPA approved the Thurston County PM–10 SIP, which met the initial requirements of the 1990 amendments for moderate PM–10 nonattainment areas, on July 27, 1993, (58 FR 40056). Other provisions were due at a later date.

States with initial PM–10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992. States also were to submit contingency measures by November 15, 1993, which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline. See sections 172(c)(9) and 189(a) and 57 FR 13543–13544.

The State has presented an adequate demonstration that it has met the requirements applicable to the area under section 110 and part D. EPA approved Washington State's NSR regulations effective June 2, 1995. EPA approved, as part of the Thurston County PM–10 attainment plan, a contingency measure that would ban the use of uncertified woodstoves in the Thurston county nonattainment area if the area failed to attain or maintain the standard. State law allowed this regulation to take effect on or after July 1, 1995.

15. Has the State Submitted a Fully Approvable Maintenance Plan for The Thurston County PM–10 Area?

Yes. Section 107(d)(3)(E) of the Act stipulates that for an area to be redesignated, EPA must fully approve a maintenance plan which meets the requirements of section 175A. Section 175A defines the general framework of a maintenance plan, which must provide for maintenance of the relevant NAAQS in the area for at least 10 years after redesignation. The following is a list of core provisions required in an approvable maintenance plan.

(a) Plan revision: the maintenance plan must provide for the maintenance of the NAAQS for ten years beyond redesignation.

(b) Subsequent plan revisions: Eight years after redesignation, the maintenance plan must provide for additional revisions as needed to maintain the standard for an additional ten years.

(c) Nonattainment requirements applicable pending plan approval: all provisions and controls in place as part of the nonattainment plan must be implemented until final redesignation to attainment.

(d) Contingency provisions: the maintenance plan must include contingency control measures which will go into effect automatically to correct any future violation of the NAAQS. These provisions must include a requirement that the State will implement all measures contained in the nonattainment area SIP.

16. How Has the State Met the Attainment Inventory Requirement?

The State should develop an attainment emissions inventory to identify the level of emissions in the area which is sufficient to attain the NAAQS. Where the State has made an adequate demonstration that air quality has improved as a result of the SIP, the attainment inventory will generally be the actual inventory at the time the area attained the standard. This inventory should be consistent with EPA's most recent guidance on emission inventories for nonattainment areas available at the time and should include the emissions during the time period associated with the monitoring data showing attainment.

For the Thurston County maintenance plan, updated, gridded based year (1995) and future year (2010) emission inventories were compiled to show emission levels consistent with attainment and continued maintenance of the PM–10 standard. The previous inventories for the area prepared for a base year of 1985 consisted primarily of emissions from woodsmoke sources. Updated emission factors and sources of activity data were used to develop the revised PM–10 emission inventories.

The inventories were gridded and temporally allocated for use in air quality modeling. This is discussed in further detail below.

The State has adequately developed an attainment emissions inventory for 1995 that identifies the levels of emissions of PM–10 in the area that are consistent with attainment of the NAAQS.

17. How Does the State Demonstrate Maintenance of the PM–10 Standard in the Future?

A State may generally demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS. Under the Act, PM–10 areas

were required to submit modeled attainment demonstrations to show that proposed reductions in emissions will be sufficient to attain the applicable NAAQS. For these areas, the maintenance demonstration should be based upon the same level of modeling.

The State has adequately demonstrated attainment of the 24-hour PM–10 NAAQS through the dispersion modeling and the annual PM–10 NAAQS through emissions inventory comparison (*i.e.*, rollback). The dispersion modeling analysis was based upon the guidelines established by EPA for the regulatory application of the urban airshed model for area wide sources.

Inputs for this model were developed using available meteorological, emissions, air quality, and land use data. The domain modeled was 30 x 27 grids, 1 km each. These parameters were chosen based on future and known emission sources, location of meteorological sites, and the wind direction during typical PM–10 episodes. Air quality inputs were based on hourly tapered element oscillating microbalance (TEOM) data collected at the Mt. View Elementary School site and assumed to represent uniform concentrations across the domain. The model used was a base case scenario that took place on January 2–3, 1995. Day specific emission rates for point sources, activity patterns, and meteorological data were used. The emission reduction benefits from the burn ban implemented on that day were also considered.

After comparing the concentrations generated by the model for January 2–3, 1995 with the actual monitored data collected on those days, the State concluded that the model adequately characterized the PM–10 episode. Based on this success, the model was used to generate future year concentrations.

The 2010 model was run using the projected inventory and the inputs from the 1995 run. Higher concentrations were simulated for 2010 than for 1995, but the maximum concentration in any one grid, 149.9 $\mu g/m^3$, does not exceed the 24-hour standard. (**Note:** despite the fact that this maximum value is very near the standard of 150.0 $\mu g/m^3$, EPA is confident that the area will maintain the standard based on the area's history and the overall strength of the maintenance plan.)

When the model was run without the benefits of the burn ban, the grid cell over the urban core exceeded the standard with a concentration of 177.7 $\mu g/m^3$. Thus, the model demonstrates that the continued implementation of the control measures in the attainment plan are needed to demonstrate maintenance of the 24-hour standard.

The emissions inventory comparison between attainment and forecast years demonstrated continued attainment of the annual PM–10 standard. The projected annual average was 25.6 $\mu g/m^3$ in 2010, well within the standard of 50.0 $\mu g/m^3$. This concentration was based on maximum allowable point source emissions and is therefore somewhat conservative.

The State has adequately demonstrated attainment of the 24-hour PM–10 NAAQS through the dispersion modeling and the annual PM–10 NAAQS through emissions inventory comparison (*i.e.*, rollback). The dispersion modeling analysis was based upon the guidelines established by EPA for the regulatory application of the urban airshed model for area wide sources (EPA, 1991, 1992).

18. How Will the State Monitor Air Quality to Verify Continued Attainment?

Once an area has been redesignated, the State must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The maintenance plan should contain provisions for continued operation of air quality monitors that will provide such verification. In its submittal, the State commits to continue to operate and maintain the network of PM–10 monitoring stations necessary to verify ongoing compliance with the PM–10 NAAQS.

19. What Contingency Plan Will the State Rely Upon To Correct any Future Violation of the NAAQS?

Section 175A of the Act also requires that a maintenance plan include contingency provisions, as necessary, to promptly address any violation of the NAAQS that occurs after redesignation. These contingency measures are distinguished from those generally required for nonattainment areas under section 172(c)(9) which are discussed above. However, if the contingency measures in a nonattainment SIP have not been implemented at the time the area is redesignated to attainment and the contingency measures included a requirement that they be implemented prior to redesignation, then they can be carried over into the area's maintenance plan.

The major contingency measure in the Thurston County PM–10 attainment plan, and carried forward in the maintenance plan, further reduced residential woodsmoke emissions. Under this measure, RCW 70.94.477(2), Olympic Air Pollution Control Authority can limit wood burning devices to fireplaces, certified woodstoves, and pellet stoves in a specific geographical area.

The State believes that additional contingency measures beyond tighter residential wood combustion regulations are not needed in the maintenance plan to assure prompt correction of a violation. However, the plan cites many additional options the State could use to control major sources of PM–10 if needed. These include additional wood seasoning rules, stove retrofits, weatherization, utility rate incentives, stove replacement, stove licensing, stove and fireplace ban, woodstove removal, voluntary curtailment, asphalt shoulders, street maintenance, sanding reduction, control of construction entrainment, new paving, and others. EPA finds the State plan includes adequate contingency measures in the maintenance plan to meet the requirement of 175A.

20. How Does This Action Affect Transportation Conformity?

Under section 176(c) of the Act, transportation plans, programs, and projects in nonattainment or maintenance areas that are funded or approved under 23 U.S.C. or the Federal Transit Act, must conform to the applicable SIPs. However, a motor vehicle emission budget was not included in the 1998 attainment plan because at the time of the attainment demonstration, it was believed that motor vehicle emissions were not a significant factor for attainment. In the maintenance plan, motor vehicle emissions are a much higher percentage of the total emission inventory. Therefore, it is more important to monitor growth of motor vehicle emissions in the air quality planning process. The maintenance plan includes a motor vehicle emissions budget which results in the need for conformity determinations for PM–10 on future Transportation Improvement Plans and Regional Transportation Plans.

21. What is the Motor Vehicle Emissions Budget for Thurston County?

Transportation conformity determinations must be consistent with the motor vehicle emissions budget of 776.36 tons of PM–10 per year. The mobile source emissions are a combination of vehicle exhaust, tire wear, and road dust.

22. In Summary, What Conclusion has EPA Reached and What is it Doing in This Action?

EPA has reviewed the maintenance plan as a revision to the Washington SIP and the adequacy of the State's request to redesignate the Thurston County PM–10 nonattainment area to attainment. EPA finds that the submittal sufficiently meets the requirements for redesignation requests. Therefore, the EPA approves Washington's redesignation request for the Thurston County PM–10 area and approves the maintenance plan as a revision to the Washington SIP.

III. Final Action

EPA approves the PM–10 maintenance plan for the Thurston County, Washington PM–10 nonattainment area and redesignates the area from nonattainment to attainment for PM–10.

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

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

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 Clean Air Act. 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 Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Additionally, redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. 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 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. 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). This rule will be effective December 4, 2000 unless EPA receives adverse written comments by November 3, 2000.

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 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 December 4, 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

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: September 12, 2000.

Michael F. Gearheard,

Acting Regional Administrator, Region 10.

Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations are 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 WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(80) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(80) On August 16, 1999, the Washington State Department of Ecology submitted a maintenance plan and redesignation request for the Thurston County PM–10 nonattainment area (dated June 11, 1997). EPA approves the Thurston County, Washington PM–10 area maintenance plan and the redesignation to attainment.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

§ 81.348 [Amended]

2. In § 81.348, the table entitled ''Washington—PM–10'' is amended by revising the entry for ''Thurston County, Cities of Olympia, Tumwater, and Lacey'' to read as follows:

* * * * *

WASHINGTON—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * * * * * *				
Thurston County Cities of Olympia, Tumwater, and Lacey.	December 4, 2000	Attainment	.....	.....
* * * * * * *				

* * * * *

[FR Doc. 00–25226 Filed 10–3–00; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6879–3]

South Carolina: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: South Carolina has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize South Carolina's changes to their hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on December 4, 2000, unless EPA receives adverse written comment by November 3, 2000. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA, 30303–3104; (404) 562–8440. You can view and copy South Carolina's application from 9:00 a.m. to 4:00 p.m. at the following addresses: South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201, (803) 896–4174; and EPA Region 4, Atlanta Federal Center, Library, 61 Forsyth Street, SW., Atlanta, Georgia 30303; (404) 347–4216.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA, 30303–3104; (404) 562–8440.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that South Carolina's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant South Carolina Final authorization to operate its hazardous waste program with the changes described in the authorization application. South Carolina has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in South Carolina, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in South Carolina subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent federal requirements in order to comply with RCRA. South Carolina has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports
- Enforce RCRA requirements and suspend or revoke permits
- Take enforcement actions regardless of whether the State has taken its own actions

This action does not impose additional requirements on the regulated community because the regulations for which South Carolina is being authorized by today's action are already effective, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the state program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the state program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has South Carolina Previously Been Authorized for?

South Carolina initially received Final authorization on November 8, 1985, effective November 22, 1985 (50 FR 46437) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on September 8, 1988, effective November 7, 1988 (53 FR 34758), February 10, 1993, effective April 12, 1993 (58 FR 7865), November 29, 1994, effective January 30, 1995, and April 26, 1996, effective June 25, 1996 (61 FR 18502).

G. What Changes Are We Authorizing With Today's Action?

On September 11, 1995, South Carolina submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that South Carolina's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. As a result of today's final authorization of South Carolina for the February 16, 1993 Corrective Action Management Unit (CAMU) rule, the State will be eligible for interim authorization-by-rule process (see August 22, 2000, 65 FR 51080, 51115). South Carolina will also become eligible for conditional authorization if that alternative is chosen by EPA in the final CAMU amendments rule. Therefore, we grant South Carolina Final authorization for the following program changes:

Federal requirement	Federal Register	Analogous state authority [1]
Wood Preserving Listing Technical Corrections, Checklist 92.	56 *FR* 30192, 07/01/1992	SCHWMA §44–56–30; SCHWM R.61–261.4(a)(9)(i)–(a)(9)(ii), R.61–79.261.35(b)–(b)(4)(i), R.61–79.262.34(a)(1)–(a)(4), R.61–79.264.570(a), (b), R.61–79.264.571(a)–(d), R.61–79.264.572, R.61–79.264.573, R.61–79.264.573(a)(5), R.61–79.264.573(b)(2)(i)(B), R.61–79.264.573(b)(2)(ii), R.61–79.264.573(e), R.61–79.264.573(m), R.61–79.264.573(m)(1), R.61–79.264.573(m)(3), R.61–79.264.574, R.61–79.264.547(a), R.61–79.264.575, R.61–79.264.575(b), R.61–79.264.575(c)(1), R.61–79.265.440(a), R.61–79.265.443(b)(2)(ii)–(iii) R.61–79.265.443(m), R.61–79.265.443(m)(1), R.61–79.265.443(m)(3), R.61–79.270.26, R.61–79.270.26(c), R.61–79.270.26(c)(14)–(16).
Land Disposal Restrictions for Electric Arc Furnace Dust (K061), Checklist 95.	56 *FR* 41164, 08/19/1991	SCHWMA §44–56–30; SCHWM R.61–79.261.3(c)(2)(ii)(C), R.61–79.261.4(a)(11), R.61–79.268.4(a)/Table CCWE, R.61–79.268.41(b), R.61–79.268.42(a)/Table 2.
Exports of Hazardous Waste, Checklist 97	56 *FR* 43704, 09/04/1991	SCHWMA §44–56–30; SCHWM R.61–79.262.50, R.61–79.262.53(b), R.61–79.262.56(b).
Amendment to Interim Status Standards of Downgradient Groundwater Monitoring Well Location, Checklist 99.	56 *FR* 66365, 12/23/1991	SCHWMA §44–56–30, §44–56–40; SCHWM R.61–79.260.10, R.61–79.265.91(a)(3), R.61–79.265.91(a)(3)(i)–(iv).
Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units, Checklist 100.	57 *FR* 3462, 01/29/1992	SCHWMA §44–56–30; SCHWMA §44–56–90; SCHWM R.61–79.260.10, R.61–79.264.15(b)(4), R.61–79.264.19(a)–(d), R.61–79.264.73(b)(6), R.61–79.264.221(c), R.61–79.264.221(c)(1)(i)(A), R.61–79.264.221(c)(1)(i)(B), R.61–79.264.221(c)(1)(ii), R.61–79.264.221(c)(2)–(c)(4), R.61–79.264.221(d), R.61–79.264.221(d)(1)–(d)(2), R.61–79.264.221(f)(1)–(f)(2), R.61–79.264.221(g)–(i), R.61–79.264.222(a)–(b), R.61–79.264.223(a)–(c)(2), R.61–79.264.226(d)(1)–(d)(3), R.61–79.264.228(b)(2)–(b)(4), R.61–79.264.251(c)–(k), R.61–79.264.252(a)–(b), R.61–79.264.253(a)–(c)(2), R.61–79.264.254(c), R.61–79.264.301(c)–(k), R.61–79.264.302(a),(b), R.61–79.264.303(c)(1)–(c)(3), R.61–79.264.304(a)–(c)(2), R.61–79.264.310(b)(3)–(b)(6), R.61–79.265.15(b)(4), R.61–79.265.19(a)–(d), R.61–79.265.73(b)(6), R.61–79.265.221(a), R.61–79.265.221(c)–(c)(2), R.61–79.265.221(f), R.61–79.265.221(g), R.61–79.265.222(a)–(c), R.61–79.265.223(a)–(c)(2), R.61–79.265.226(b)(1)–(b)(3), R.61–79.265.228(b)(2)–(b)(4), R.61–79.265.254, R.61–79.265.255(a)–(c), R.61–79.265.259(a)–(c)(2), R.61–79.265.260, R.61–79.265.301(a), R.61–79.265.301(c)–(c)(2), R.61–79.265.301(f)–(i), R.61–79.265–302(a)–(c), R.61–79.265.301(i), R.61–79.265.303(a)–(c)(2), R.61–79.265.304(a)–(c), R.61–79.265.310(b)(2)–(b)(5), R.61–79.270.4(a)–(a)(3), R.61–79.270.17(b)–(b)(7), R.61–79.270.17(c), R.61–79.270.18(c)–(d), R.61–79.270.21(b)–(b)(1)(v), R.61–79.270.21(d), R.61–79.270.42/ Appendix 1.
Administrative Stay for the Requirement that Existing Drip Pads be Impermeable, Checklist 101.	57 *FR* 5859, 02/18/1992	SCHWMA §44–56–30; SCHWMA §44–56–40; SCHWM R.61–79.264.573(a)(4)/note, R.61–79.265.443(a)(4)/note.
Second Correction to the Third Third Land Disposal Restrictions, Checklist 102.	57 *FR* 8086, 03/06/1992	SCHWMA §44–56–30; SCHWM R.61–79.264.13(a)(1), R.61–79.268.3(b), R.61–79.268.41(a), R.61–79.268.42/Table 2.
Hazardous Debris Case-by-Case Capacity Variance, Checklist 103.	57 *FR* 20766, 05/15/1992	SCHWMA §44–56–30; SCHWM R.61–79.268.35(e).
Used Oil Filter Exclusion, Checklist 104	57 *FR* 21524, 05/20/1992	SCHWMA §44–56–30; SCHWMA §44–56–40; SCHWM R.61–79.261.4(b)(13), R.61–79.261.4(b)(13)(i)–(iv).

Federal requirement	Federal Register	Analogous state authority [1]
Recycled Coke By-Product Exclusion, Checklist 105.	57 *FR* 27880, 06/22/1992	SCHWMA § 44–56–30; SCHWM R.61–79.261.4(a)(10), R.61–79.266.100(a).
Lead-bearing Hazardous Materials Case by Case Variance, Checklist 106.	57 *FR* 28628, 06/26/1992	SCHWMA § 44–56–30; SCHWM R.61–79.268.35(k).
Used Oil Filter Exclusion; Technical Corrections, Checklist 107.	57 *FR* 29220, 07/01/1992	SCHWMA § 44–56–30; SCHWMA § 44–56–40; SCHWM R.61–79.261.4(b)(13).
Toxicity Characteristics Revising Technical Corrections, Checklist 108.	57 *FR* 30657, 07/10/1992	SCHWMA § 44–56– ; SCHWM R.61–79.261.4(b)(6)(ii), R.61–79.261.4(b)(9), R.61–79.265.01(d)(1).
Land Disposal Restrictions for Newly Listed Waste and Hazardous Debris, Checklist 109.	57 *FR* 37194, 08/18/1992	SCHWMA § 44–56–30; SCHWM R.61–79.260.10. R.61–79.261.3(a)(2)(iii), R.61–79.261.3(c)(2)(ii)(C)(1)–(2), R.61–79.261.3(f)–(f)(2), R.61–79.262.34(a)(1)(iii), R.61–79.262.34(a)(1)(iii)(B), R.61–79.262.34(a)(1)(iv), R.61–79.262.34(a)(1)(iv)(A)–(B), R.61–79.262.34(a)(2), R.61–79.264.110(b)(1)–(4), R.61–79.264.111(c), R.61–79.264.112(a)(2), R.61–79.264.140(b)(1)–(b)(4), R.61–79.264.142(a), R.61–79.264.1100, R.61–79.264.1100(a)–(e), R.61–79.264.1101(a)–(a)(4), R.61–79.264.1101(b)–(b)(4)(iii), R.61–79.264.1101(c)–(c)(4), R.61–79.264.1101(d)–(d)(3), R.61–79.264.1101(e), R.61–79.264.1102(a), R.61–79.264.1103–1110, R.61–79.265.110(b)(1)–(b)(4), R.61–79.265.111(c), R.61–79.265.112(d)(4).
Land Disposal Restrictions for Newly Listed Waste and Hazardous Debris, cont, Checklist 109.	57 *FR* 37194, 08/18/92	R.61–79.265.140(b)–(b)(3), R.61–79.265.142(a), R.61–79.265.221(h), R.61–79.265.1100, R.61–79.265.1100(a)–(e), R.61–79.265.1101(a)–(a)(4), R.61–79.265.1101(b)–(b)(4)(iii), R.61–79.265.1101(c)–(c)(4), R.61–79.264.151(m)(1)–(m)(2), R.61–79.264.151(n)(1)–(n)(2), R.61–79.265.141(h), R.61–79.265.143(e)(10)–(e)(11), R.61–79.265.1101(d)–(e), R.61–79.265.1102(a),(b), R.61–79.265.1103–1110, R.61–79.268.2(g),(h), R.61–79.268.7(a)(1)(iii)–(v), R.61–79.268.7(a)(2), R.61–79.268.7(a)(3)(iv)–(vi), R.61–79.268.7(a)(4), R.61–79.268.7(b)(4)–(b)(5), R.61–79.268.7(d)–(d)(3)(iii), R.61–79.268.9(d)–(d)(2), R.61–79.268.14(a)–(c), R.61–79.268.36(a)–(i), R.61–79.268.40(b),(d), R.61–79.268.41(a), R.61–79.268.41(c), R.61–79.268.41(a)/Table CCWE, R.61–79.268.41(c), R.61–79.268.42/Table 2, R.61–79.268.42(d), R.61–79.268.43/Table CCW, R.61–79.268.45(a)–(a)(5), R.61–79.268.45(b)–(b)(3), R.61–79.268.45(c), R.61–79.268.45(d)(1)–(d)(5), R.61–79.268.46, R.61–79.268.46/Table 1, R.61–79.268.50(a)(1)–(a)(2), Appendix II, R.61–79.270.13(n), R.61–79.270.14(b)(2), R.61–79.270.42(e)(3)(ii)(B), R.61–79.270.42 Appendix I, 1(b), R.61–79.270.42 Appendix I, M, R.61.270.72(b)(6).
Coke By-Products Listings, Checklist 110	57 *FR* 37284, 08/18/92	SCHWMA § 44–56–30; SCHWM R.61–79.261.4(a)(10); R.61–79.261.32; R.61–79.261, Appendix VII.
Consolidated Liability Requirements, Checklist 113.	53 *FR* 33938, 07/02/91 57 *FR* 42832, 08/16/92.	SCHWMA § 44–56–30; SCHWMA § 44–56–40; SCHWM R.61–79.264.141(h), R.61–79.264.143(f)(10)–(11), R.61–79.264.145(e)(11), R.61–79.264.147(a)–(a)(7)(iii), R.61–79.147(b)–(b)(7)(iii), R.61–79.264.147(f)(6), R.61–79.264.147(g)–(g)(2)(ii), R.61–79.264.147(h)–(h)(5), R.61–79.264.147(i)–(i)(4)(ii), R.61–79.264.147(j)–(j)(4), R.61–79.264.147(k), R.61–79.264.151(b), R.61–79.264.151(f), R.61–79.264.151(g), R.61–79.264.151(h)(1)–(h)(2), R.61–79.264.151(i)(2)(d), R.61–79.264.151(j)(2)(d), R.61–79.264.151(k),(l), R.61–79.264.151(m)(1)–(m)(2), R.61–79.264.151(n)(1)–(n)(2), R.61–79.265.141(h), R.61–79.265.143(e)(10), R.61–79.264.145(e)(11), R.61–79.265.147(a)–(a)(7)(iii), R.61–79.265.147(b)–(b)(7)(iii), R.61–79.265.147(f)(6), R.61–79.265.147(g)–(g)(2)(ii), R.61–79.265.147(h)–(h)(5), R.61–79.265.147(i)–(i)(4)(ii), R.61–79.147(j)–(j)(4), R.61–79.147(k).
Chlorinated Toluenes Production Waste Listing, Checklist 115.	57 *FR* 47376, 10/15/92	SCHWMA § 44–56–30; SCHWM R.61–79.261.32; Appendix VII.
Hazardous Soil Case-by-Case Capacity Variance, Checklist 116.	57 *FR* 47772, 10/20/92	SCHWMA § 44–56–30; SCHWM R.61–79.268.35(c), R.61–79.268.35(d), R.61–79.268.35(e)–(e)(2).
Reissuance of the ''Mixture'' and ''Derived-From'' Rules, Checklist 117A.	57 *FR* 6728, 03/03/92	SCHWMA § 44–56–30, § 44–56–40; SCHWM R.61–79.261.3(a)–(a)(2)(iv)(E), R.61–79.261.3(b)–(b)(3), R.61–79.261.3(c)–(c)(2)(ii)(c)(1)&(2), R.61–79.261.3(d)–(d)(2).
Toxicity Characteristic Amendment, Checklist 117B.	57 *FR* 23062, 06/01/92	SCHWMA § 44–56–30; SCHWMA § 44–56–40; SCHWM R.61–79.261.3(a)(2)(i).

Federal requirement	Federal Register	Analogous state authority [1]
Liquid in Landfills II, Checklist 118	57 *FR* 54452, 11/18/92	SCHWMA §44–56–30; SCHWM R.61–79.260.10, R.61–79.264.13(c)(3), R.61–79.264.314(a)(2), R.61–79.264.314(b), R.61–79.314(d)(1)(ii), R.61–79.264.314(e), R.61–79.264.314(e)(1)–(e)(2)(ii), R.61–79.264.314(f)–(f)(2), R.61–79.264.316(b), R.61–79.264.316(c), R.61–79.265.13(c)(3), R.61–79.265.314(a)(2), R.61–79.265.314(b), R.61–79.265.314(c)(1)(ii), R.61–79.265.314(f), R.61–79.265.314(f)(1)–(f)(2)(ii), R.61–79.265.314(g)–(g)(2), R 61–79.265.316(b), R.61–79.265.316(c).
Toxicity Characteristic Revision; TCLP correction, Checklist 119.	57 *FR* 44114, 11/24/92; 58 *FR* 6854, 02/02/93.	SCHWMA §44–56–30; SCHWMA §44–56–40; SCHWM R.61–79.261; Appendix II.
Wood Preserving; Revisions to Listing and Technical Requirements, Checklist 120.	57 *FR* 61492, 12/24/92	SCHWMA §44–56–30; SCHWMA §44–56–40; SCHWM R.61–79.261.31(a)/Table R.61–79.264.570(a), R.61–79.264.570(c)–(c)(1)(iv), R.61–79.264.571(a), R.61–79.264.571(b)–(b)(3), R.61–79.264.572, R.61–79.264.572(a), R.61–79.265.572(b), R.61–79.265.573(a)(4)(i)–(ii), R.61–79.265.573(b), R.61–79.264.573(b)(3), R.61–79.264.573(i), R.61–79.265.440(a), R.61–79.265.440(c)–(c)(1)(iv), R.61–79.265.441(a), R.61–79.265.441(b)–(b)(3), R.61–79.265.442, R.61–79.265.442(a),(b), R.61–79.265.443(a)(4)(i)–(ii), R.61–79.265.443(b), R.61–79.265.443(b)(3), R.61–79.265.443(i).
Corrective Action Management Units and Temporary Units, Checklist 121.	58 *FR* 8658, 02/16/93	SCHWMA §44–56–30; SCHWMA §44–56–40; SCHWMA §44–56–140; SCHWM R.61–79.260.10, R.61–79.264.3, R.61–69.264.101(b), R.61–79.264.552(a)–(a)(2), R.61–79.264.552(b)(1)–(b)(2), R.61–79.264.552(c)–(c)(7), R.61–79.264.552(d), R.61–79.264.552(e)–(e)(4)(iv), R.61–79.264.552(f)–(h), R.61–79.264.553(a), R.61–79.264.553(b)–(b)(2), R.61–79.264.53(c)–(c)(7), R.61–79.264.553(d), R.61–79.264.553(e)–(e)(2), R.61–79.264.553(f)–(f)(2), R.61–79.264.553(g), R.61–79.265.1(b), R.61–79.268.2(c), R.61–79.270.2, R.61–79.260.42 Appendix 1.
Land Disposal Restrictions Renewal of Hazardous Waste Debris Case-by-Case Capacity Variance, Checklist 123.	58 *FR* 28506, 05/14/93	SCHWMA §44–56–30; SCHWM R.61–79.268.35(e)(1), R.61–79.268.35(e)(2)–(e)(5), R.61–79.268.35(e)(5)(i)–(e)(5)(ii)(H).
Land Disposal Restriction for Ignitable and Corrosive Characteristic Waste Whose Treatment Standards were Vacated, Checklist 124.	58 *FR* 29860, 05/24/93	SCHWMA §44–56–30; SCHWM R.61–79.264.1(g)(6), R.61–79–265.1.(c)(10), R.61–79.268.1(e)(4)–(e)(5), R.61–79.268.2(i), R.61–79.268.7(a), R.61–79.268.7(a)(1)(ii), R.61–79.268.7(b)(4)(ii), R.61–79.268.9(a), R.61–79.268.37(a),(b), R.61–79.268.40(b), R.61–69.268.41(a),Table CCWE, R.61–79.268.42(a), Table 2, R.61–79.268.43(a), Table CCW, R.61–79.270.42 Appendix 1.
Testing and Monitoring Activities, Checklist 126	58 *FR* 46040, 08/31/93	SCHWMA §44–56–30; SCHWMA §44–56–40; SCHWMA §44–56–120; SCHWM R.61–79.260.11(a), R.61–79.260.22(d)(1)(i), R.61–79.261.22(a)(1)–(a)(2), R.61–79.261.24(a), Appendix II, Appendix III, R.61–79.264.190(a), R.61–79.264.314(c), R.61–79.265.190(a), R.61–79.265.314(d), R.61–79.268.7(a), R.61–79.268.40(a), R.61–79.268.41(a), R.61–79.268 Appendix I, R.61–79.268 Appendix IX, R.61–79.270.6(a), R.61–79.270.19(c)(1)(iii), R.61–79.270.19(c)(1)(iv), R.61–79.270.62(b)(2)(i)(C), R.61–79.270.62(b)(2)(i)(D), R.61–79.270.66(C)(2)(i), R.61–69.270.66(c)(2)(ii).
Wastes from the Use of Chlorophenolic Formulations in Wood Surface Protection, Checklist 128.	59 *FR* 458, 01/04/94, ...	SCHWMA §44–56–30; SCHWMA §44–56–40; SCHWM R.61–79.260.11(a); Appendix VIII.
Revision of Conditional Exemption for Small Scale Treatability Studies, Checklist 129.	59 *FR* 8362, 02/18/94	SCHWMA §44–56–30; SCHWMA §44–56–40; SCHWM R.61–79.261.4(e)(2)(i), R.61–79.261.4(e)(2)(ii), R.61–79.261.4(e)(3), R.61–79.261.4(e)(3)(i)–(iii)(E), R.61–79.261.4(f)(3)–(f)(5).
Recordkeeping Instructions; Technical Amendment, Checklist 131.	59 *FR*, 13891, 03/24/94	SCHWMA §44–56–30; SCHWMA §44–56–80; SCHWM R.61–79.264, Appendix 1/Table 1, Appendix 1/Table 2, R.61–79.265, Appendix 1/Table 1, Appendix 1/Table 2.
Wood Surface Protection, Correction, Checklist 132.	59 *FR* 28484, 06/02/94	SCHWMA §44–56–30; SCHWMA §44–56–40; SCHWM R.61–79.260.11(a).
Letter of Credit Revision, Checklist 133	59 *FR*, 29958, 06/10/94	SCHWMA §44–56–30; SCHWMA §44–56–40; SCHWM R.61–79.264.151(d), Appendix D, R.61–79.264.151(k), Appendix K.

Federal requirement	Federal Register	Analogous state authority [1]
Correction of Beryllium Powder (PO15) Listing, Checklist 134.	59 *FR*, 31551, 06/20/94	SCHWMA § 44–56–30; SCHWMA § 44–56–40; SCHWM R.61–79.268.42(a)/Table 2, R.61–79.261.33(e), Appendix VIII.

[1] The South Carolina provisions are from the South Carolina Hazardous Waste Management Regulations, May 24, 1996, unless otherwise stated.

H. Where Are the Revised State Rules Different From the Federal Rules?

EPA cannot delegate the Federal requirements at: 40 CFR 268.5 (h)(2)(ii), 268.5(h)(2)(iv), 268.5(h)(2)(v), 268.5(h)(2)(vi) and 268.42(b). Although South Carolina has adopted these requirements verbatim from the federal regulations—SCHWM R.61–79.268.5 (h)(2)(ii), R.61–79.268.5 (h)(2)(iv), R.61–79.268.5 (h)(2)(v), R.61–79.268.5 (h)(2)(vi) and R.61–79.268.42(b), EPA will continue to implement those requirements.

I. Who Handles Permits After the Authorization Takes Effect?

South Carolina will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. At the time the State Program is approved in the new areas, EPA will suspend issuance of Federal permits in the State and terminate those Federal permits issued pursuant to 40 CFR 124.5 and 271.8 upon effectiveness of equivalent state permit conditions. EPA will also transfer any pending permit applications, completed permits, or pertinent file information to the State within thirty (30) days of the approval of the State Program in conformance with the conditions of this agreement. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which South Carolina is not yet authorized.

J. What Is Codification and is EPA Codifying South Carolina's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart PP for this authorization of South Carolina's program until a later date.

K. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes state requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by state law. Accordingly, I certify that this action 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 action authorizes 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 (Pub. L. 104–4). For the same reason, this action 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 action 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 authorizes state requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. 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 document 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 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). This action will be effective December 4, 2000.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: September 15, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region IV.

[FR Doc. 00–25345 Filed 10–3–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket 99–81; FCC 00–302]

Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission has adopted licensing and service rules for entities to provide Mobile Satellite Service in the 2 GHz Band, specifically the 1990–2025 MHz and 2165–2200 MHz frequency bands. System proponents currently on file are required to amend their proposals to comply with the adopted rules. Following a public comment period, qualified systems will be authorized to operate. Upon launch, these new systems will provide mobile voice, data, Internet and other services to U.S. consumers for communications in the United States and around the world.

DATES: Effective November 3, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., TW–325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For more information regarding the Report and Order contact Howard Griboff (202) 418–0657 of the International Bureau. For more information regarding the information collections in the Report and Order, contact Judy Boley at 202–418–0214; 445 12th Street SW., Rm. 1–C804, Washington DC 20554 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in IB Docket No. 99–81; FCC 00–302, adopted August 14, 2000 and released on August 25, 2000. The complete text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room), 445 12th Street, SW., Washington, DC 20554, and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS, Inc.), 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Summary of Report and Order

The Federal Communications Commission has adopted rules for the 2 GHz (1990–2025MHz/2165–2200 MHz) mobile satellite services (MSS). These systems will provide mobile voice, data, Internet and other services to U.S. consumers for communications in the United States and around the world. The systems under consideration include geostationary and non-geostationary orbit systems.

The Commission adopted an innovative band arrangement that can accommodate the multiple and technically-diverse systems that have requested authorization and described the method to be used for licensing. Pursuant to the Commission's new rules, each authorized system will receive an equal share of the available frequencies. A licensee will select the specific frequencies in which its primary service operations will take place at the time it has launched one satellite into its intended orbit. In addition, because there are a number of incumbent terrestrial services (*e.g.*, broadcast auxiliary service and and fixed microwave service) in the 2 GHz MSS bands, each authorized system will have flexibility to operate at other frequencies in the band. This flexibility may lower the costs of relocating incumbent systems and facilitate quicker deployment of service. To encourage delivery of mobile satellite services to rural service areas, the Commission reserved an additional spectrum segment to be awarded in equal shares to systems demonstrating that a percentage of their capacity is contracted with service providers that offer service to consumers in rural and unserved service areas.

The Commission found that it was not necessary to apply financial qualification requirements to the applicants because there is sufficient spectrum to accommodate all of the proposed systems. 2 GHz MSS licenses will be for a fifteen-year period. Consistent with its past spectrum management policies, the Commission is requiring that system proponents enter non-contingent satellite manufacturing contracts within one year of authorization and launch of authorized 2 GHz MSS systems no later than six years from the date of authorization. System proponents will have to complete critical design review (CDR) within two years of authorization. The rules require that physical construction of all satellites in the system commence within two and a half years of authorization (non-geostationary systems) and three years of authorization (geostationary systems). Construction and launch of the first two satellites must be complete within three and a half years of grant for non-geostationary systems and five years for geostationary systems. Non-compliance with implementation milestones will result in cancellation of the authorization. Failure to file a timely certification of milestone compliance, or filing disclosure of non-compliance, will result in automatic cancellation of an operator's system authorization with no further action required on the Commission's part.

In addition, the new rules require disclosure, prior to authorization, of orbital debris mitigation measures for 2 GHz MSS systems. The Commission also addressed provision of distress and safety communications and 911 services, and stated that it would study this issue in greater detail in the pending Global Mobile Personal Communications by Satellite proceeding.

The system proponents are required to amend their proposals to comply with the rules adopted on or before November 3, 2000. Following a public comment period, qualified systems will be authorized to operate.

Final Regulatory Flexibility Analysis

A. Need for, and Objectives of, This Report and Order

This Report and Order establishes a spectrum authorization approach to accommodate all proposed 2 GHz MSS systems, and service rules to govern the 2 GHz MSS systems. These actions are designed to assign the 2 GHz MSS spectrum to applicants, or reserve the 2 GHz MSS spectrum in the case of letter of intent filers, in an efficient manner. At the same time, these rules are designed to ensure systems implement their proposals in a manner that serves the public interest and results in the continued deployment of mobile satellite services to the public, with minimal disruption to existing 2 GHz band permittees and licensees.

B. Summary of Significant Issues Raised in Comments in Response to the IRFA

There were no comments which solely discussed or addressed the IRFA. The Commission has nonetheless considered any potential significant economic impact of the rules on small entities, and has designed its rules to reduce regulatory burdens on these entities accordingly.

C. Description and Estimate of Number of Small Entities to Which Rules Will Apply

The Commission has not developed a definition of small entities applicable to geostationary or non-geostationary orbit fixed-satellite or mobile satellite service operators. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to Communications Services, Not Elsewhere Classified. This definition provides that a small entity is one with $11.0 million or less in annual receipts. 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899. According to Census Bureau data, there are 848 firms that fall under the category of Communications Services, Not Elsewhere Classified, which could potentially fall into the 2 GHz MSS category. Of those, approximately 775 reported annual receipts of $11 million or less and qualify as small entities. U.S. Bureau of Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 2D, Employment Size of Firms: 1992, SIC Code 4899 (issued May 1995). The rules adopted in this Report and Order apply only to entities providing 2 GHz mobile satellite service. At least one of the 2 GHz MSS system proponents may be considered a small business at this time. Small businesses often do not have the financial ability to become 2 GHz MSS system operators because of the high implementation costs associated with satellite systems and services. By the time of system implementation, we expect that the one small entity will no longer be considered a small business due to the capital requirements for launching and operating its proposed system. Therefore, because of the high implementation costs of providing 2 GHz MSS, we believe that this Report and Order will have no significant impact on small entities.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The rules adopted in the Report and Order affect those entities applying for 2 GHz MSS space station and earth station authorizations and those participating in assignment of 2 GHz MSS spectrum. As an initial matter, the nine 2 GHz MSS system proponents under consideration in this Report and Order are required to submit amendments to their previously-filed applications or letters of intent, to conform their proposed systems to the spectrum authorization and service rules adopted herein, including an orbital debris statement. The adopted rules also require each authorized 2 GHz MSS system to notify the Commission that it has met construction milestones, notify the Commission as to which spectrum block it chooses as its preferred spectrum block at the time that the first satellite in its system reaches its intended orbit, and, if it desires additional spectrum under the rural service initiative, notify the Commission of how it has achieved the required rural service criteria. Once operational, the 2 GHz MSS systems may need to coordinate with each other the use of spectrum outside of its preferred spectrum block. These negotiations are likely to require the skills of engineers to evaluate the technical requirements of co-frequency spectrum sharing and/or adjacent frequency operation on a non-interference basis.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

In developing the rules and policies adopted in this Report and Order, the Commission has attempted to minimize the burdens on all entities in order to allow maximum participation in the 2 GHz MSS market, while achieving the item's other objectives. The Commission considered band arrangements that would have assigned specified blocks of spectrum based on modulation technology (*i.e.,* code division multiple access or time division multiple access). Similarly, the Commission considered Globalstar's suggested band arrangement that would have required all systems to pre-negotiate a sharing architecture. The Commission rejected these alternatives, in part because these alternatives would have required all 2 GHz MSS operators to choose their technological parameters immediately, rather than allowing systems to optimize designs in order to promote innovation and reduce the economic impact of system build-out. In addition, to reduce the 2 GHz MSS operators' incumbent relocation costs, the Commission will exempt any 2 GHz MSS operator from relocation obligations if it is capable of sharing spectrum on a non-interference basis with the existing incumbent operations.

Paperwork Reduction Act

This Report and Order contains a new or modified information collection. The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments on emergency request for approval of information collections are due on or before October 25, 2000; public and agency comments on the regular request for approval of the information collections are due on or before December 4, 2000.

Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarify 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. These comments on both regular and emergency requests for approval of the information collection should be submitted to Judy Boley at 445 12th Street S.W., Rm. 1–C804, Washington DC 20554 or via internet at jboley@fcc.gov; phone 202–418–0214. In addition, comments on the emergency request for approval of the information collections should be submitted to Edward C. Springer, OMB Desk Officer, Rm. 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, or via the Internet to Edward.Springer@omb.eop.gov.

OMB Approval Number: 3060-XXXX.

Title: 2 GHz Mobile Satellite Service Reports.

Form No.: NA.

Type of Collection: New Collection.

Respondents: Business or other for-profit.

Number of Respondents: 9.

Estimated Time for Response: 3 hours.

Total Annual Burden: 27 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $14,000.

Needs and Uses: The information will be used by the Federal Communications Commission (FCC) and interested members of the public to ensure compliance with the rules adopted for the 2 GHz mobile satellite service. Specifically, the rules require disclosure in the form of a narrative statement, through amendments to applications or letters of intent, of orbital debris mitigation design and operational strategies and a casualty risk assessment if planned post-mission disposal involves atmospheric re-entry of spacecraft. This requirement will permit the Commission and the public to comment on each system's design. 2

GHz mobile satellite systems receiving expansion spectrum as part of the rural and unserved areas spectrum incentive must provide a report on the actual number of subscriber minutes originating or terminating in unserved areas as a percentage of the actual U.S. system use. This rule will permit the Commission to verify that service is being provided in rural and unserved areas. In addition, system proponents will have to complete critical design review (CDR) within two years of authorization. CDR is a new milestone for satellite services and will permit the Commission to more closely monitor system construction. Without such information, the FCC could not determine whether satellite licenses are operating in conformance with its rules.

Ordering Clauses

Pursuant to Sections 4(i), 7, 302, 303(c), 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Section 154(i), 157, 302, 303(c), 303(e), 303(f) and 303(r), this *Report and Order Is Adopted* and that part 25 of the Commission's Rules *Is Amended* and is effective November 3, 2000.

The applicants and LOI filers will be required to file conforming amendments and all necessary fees no later than November 3, 2000 for continued consideration in this processing round.

The Regulatory Flexibility Analysis, as required by Section 604 of the Regulatory Flexibility Act, *Is Adopted.*

The Commission's Consumer Information Bureau, Reference Information Center, *Shall Send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 25 as follows:

1. The authority citation for part 25 is revised to read as follows:

Authority: 47 U.S.C. 701–744. Interprets or applies Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

2. Section 25.114 is amended by revising paragraphs (c)(6)(iii) and (c)(21) to read as follows:

§ 25.114 Applications for space station authorizations.

* * * * *

(c) * * *

(6) * * *

(iii) If applicable, the feeder link and inter-satellite service frequencies requested for the satellite, together with any demonstration otherwise required by this chapter for use of those frequencies (*see, e.g.*, §§ 25.203(j) and (k));

* * * * *

(21) Applications for authorizations in the 1.6/2.4 GHz Mobile-Satellite Service or 2 GHz Mobile-Satellite Service shall also provide all information specified in § 25.143.

* * * * *

3. Section 25.115 is amended by revising paragraph (d) to read as follows:

§ 25.115 Application for earth station authorizations.

* * * * *

(d) User transceivers in the NVNG, 1.6/2.4 GHz Mobile-Satellite Service, and 2 GHz Mobile-Satellite Service need not be individually licensed. Service vendors may file blanket applications for transceivers units using FCC Form 312, Main Form and Schedule B, and specifying the number of units to be covered by the blanket license. Each application for a blanket license under this section shall include the information described in § 25.136.

* * * * *

4. Section 25.121 is amended by revising paragraph (a) to read as follows:

§ 25.121 License term and renewals.

(a) *License term.* Licenses for facilities governed by this part will be issued for a period of 10 years, except that licenses and authorizations in the 2 GHz Mobile-Satellite Service will be issued for a period of 15 years.

* * * * *

5. Section 25.133 is amended by revising paragraph (b) to read as follows:

§ 25.133 Period of construction; certification of commencement of operation.

* * * * *

(b) Each license for a transmitting earth station included in this part shall also specify as a condition therein that upon the completion of construction, each licensee must file with the Commission a certification containing the following information: The name of the licensee; file number of the application; call sign of the antenna; date of the license; a certification that the facility as authorized has been completed and that each antenna facility has been tested and is within 2 dB of the pattern specified in §§ 25.209, 25.135 (NVNG MSS earth stations), or § 25.213 (1.6/2.4 GHz Mobile-Satellite Service and 2 GHz Mobile-Satellite Service earth stations); the date on which the station became operational; and a statement that the station will remain operational during the license period unless the license is submitted for cancellation. For stations authorized under § 25.115(c) (Large Networks of Small Antennas operating in the 12/14 GHz bands) and § 25.115(d) (User Transceivers in the Mobile-Satellite Service), a certificate must be filed when the network is put into operation.

* * * * *

6. Section 25.136 is revised to read as follows:

§ 25.136 Operating provisions for earth station networks in the 1.6/2.4 GHz mobile-satellite service and 2 GHz mobile-satellite service.

In addition to the technical requirements specified in § 25.213, earth stations operating in the 1.6/2.4 GHz Mobile-Satellite Service or 2 GHz Mobile-Satellite Service are subject to the following operating conditions:

(a) User transceiver units associated with the 1.6/2.4 GHz Mobile-Satellite Service or 2 GHz Mobile-Satellite Service may not be operated on civil aircraft unless the earth station has a direct physical connection to the aircraft Cabin Communication system.

(b) No person shall transmit to a space station unless the user transceiver is first authorized by the space station operator or by a service vendor authorized by that operator, and the specific transmission is conducted in accordance with the operating protocol specified by the system operator.

(c) Any user transceiver unit associated with this service will be deemed, when communicating with a particular 1.6/2.4 GHz Mobile-Satellite Service or 2 GHz Mobile-Satellite Service system pursuant to paragraph (b) of this section, to be temporarily associated with and licensed to the system operator or service vendor holding the blanket earth station license awarded pursuant to § 25.115(d). The domestic earth station licensee shall, for this temporary period, assume the same licensee responsibility for the user transceiver as if the user transceiver were regularly licensed to it.

7. Section 25.137 is amended by adding paragraph (d) to read as follows:

§ 25.137 Application requirements for earth stations operating with non-U.S. licensed space stations.

* * * * *

(d) Earth station applicants requesting authority to operate with a non-U.S. licensed space station must demonstrate that the space station the applicant seeks to access has complied with all applicable Commission milestones, reporting requirements, and any other applicable service rules required for non-U.S. licensed systems to operate in the United States.

8. Section 25.143 is amended by revising paragraphs (a), (b)(1), (b)(2), (e)(1), (e)(1)(iii), and (f)(1), and by adding paragraph (e)(3) to read as follows:

§ 25.143 Licensing provisions for the 1.6/2.4 GHz mobile-satellite service and 2 GHz mobile-satellite service.

(a) *System license.* Applicants authorized to construct and launch a system of technically identical satellites will be awarded a single ''blanket'' license. In the case of non-geostationary satellites, the blanket license will cover a specified number of space stations to operate in a specified number of orbital planes. In the case of geostationary satellites, as part of a geostationary-only satellite system or a geostationary/non-geostationary hybrid satellite system, an individual license will be issued for each satellite to be located at a geostationary orbital location.

* * * * *

(b) * * *

(1) *General requirements.* Each application for a space station system authorization in the 1.6/2.4 GHz Mobile-Satellite Service or 2 GHz Mobile-Satellite Service shall describe in detail the proposed satellite system, setting forth all pertinent technical and operational aspects of the system, and the technical, legal, and financial qualifications of the applicant. In particular, each application shall include the information specified in § 25.114. Non-U.S. licensed systems shall comply with the provisions of § 25.137. System proponents seeking authorization in the 2 GHz Mobile-Satellite Service also shall describe the design and operational strategies that they will use, if any, to mitigate orbital debris. Applicants must submit a casualty risk assessment if planned post-mission disposal involves atmospheric re-entry of the spacecraft.

(2) *Technical qualifications.* In addition to providing the information specified in paragraph (b)(1) of this section, each applicant and letter of intent filer shall demonstrate the following:

(i) That a proposed system in the 1.6/2.4 GHz MSS frequency bands employs a non-geostationary constellation or constellations of satellites;

(ii) That a system proposed to operate using non-geostationary satellites be capable of providing mobile satellite services to all locations as far north as 70 deg. North latitude and as far south as 55 deg. South latitude for at least 75% of every 24-hour period, *i.e.*, that at least one satellite will be visible above the horizon at an elevation angle of at least 5 deg. for at least 18 hours each day within the described geographic area;

(iii) That a system proposed to operate using non-geostationary satellites be capable of providing mobile satellite services on a continuous basis throughout the fifty states, Puerto Rico and the U.S. Virgin Islands, i.e., that at least one satellite will be visible above the horizon at an elevation angle of at least 5 deg. at all times within the described geographic areas; and

(iv) That a system only using geostationary orbit satellites, at a minimum, be capable of providing mobile satellite services on a continuous basis throughout the 50 states, Puerto Rico, and the U.S. Virgin Islands, if technically feasible.

(v) That operations will not cause unacceptable interference to other authorized users of the spectrum. In particular, each application in the 1.6/2.4 GHz frequency bands shall demonstrate that the space station(s) comply with the requirements specified in § 25.213.

* * * * *

(e) * * *

(1) All operators of 1.6/2.4 GHz Mobile-Satellite Service systems and 2 GHz Mobile-Satellite Service systems shall, on October 15 of each year, file with the International Bureau and the Commission's Columbia Operations Center, Columbia, Maryland, a report containing the following information current as of September 30 of that year:

* * * * *

(iii) A detailed description of the utilization made of the in-orbit satellite system. That description should identify the percentage of time that the system is actually used for U.S. domestic or transborder transmission, the amount of capacity (if any) sold but not in service within U.S. territorial geographic areas, and the amount of unused system capacity. 2 GHz Mobile Satellite systems receiving expansion spectrum as part of the unserved areas spectrum incentive must provide a report on the actual number of subscriber minutes originating or terminating in unserved areas as a percentage of the actual U.S. system use; and

* * * * *

(3) All operators of 2 GHz Mobile-Satellite Service systems must begin system construction upon award of a service link license to U.S.-based applicants, or upon designation of spectrum for non-U.S.-based systems, in accordance with milestones set forth in the respective system's authorization. All operators of 2 GHz Mobile-Satellite Service systems shall, within 10 days after a required implementation milestone as specified in the system authorization, certify to the Commission by affidavit that the milestone has been met or notify the Commission by letter that it has not been met. At its discretion, the Commission may require the submission of additional information (supported by affidavit of a person or persons with knowledge thereof) to demonstrate that the milestone has been met. Failure to file timely certification of milestones, or filing disclosure of non-compliance, will result in automatic cancellation of the authorization with no further action required on the Commission's part.

* * * * *

(f) * * *

(1) Stations operating in the 1.6/2.4 GHz Mobile-Satellite Service and 2 GHz Mobile-Satellite Service that are voluntarily installed on a U.S. ship or are used to comply with any statute or regulatory equipment carriage requirements may also be subject to the requirements of sections 321(b) and 359 of the Communications Act of 1934. Licensees are advised that these provisions give priority to radio communications or signals relating to ships in distress and prohibits a charge for the transmission of maritime distress calls and related traffic.

* * * * *

9. Section 25.201 is amended by adding the following definition in alphabetical order to read as follows:

§ 25. 201 Definitions.

* * * * *

2 GHz Mobile-Satellite Service. A mobile-satellite service that operates in the 1990–2025 MHz and 2165–2200 MHz frequency bands, or in any portion thereof.

* * * * *

10. Section 25.202 is amended by revising paragraph (a)(4) to read as follows:

§ 25. 202 Frequencies, frequency tolerance and emission limitations.

(a) * * *

(4)(i) The following frequencies are available for use by the 1.6/2.4 GHz Mobile-Satellite Service:

1610–1626.5 MHz: User-to-Satellite Link
1613.8–1626.5 MHz: Satellite-to-User Link (secondary)
2483.5–2500 MHz: Satellite-to-User Link

(ii) The following frequencies are available for use by the 2 GHz Mobile-Satellite Service:

1990–2025 MHz: User-to-Satellite Link
2165–2200 MHz: Satellite-to-User Link

* * * * *

11. Section 25.203 is amended by revising paragraph (c) introductory text to read as follows:

§ 25.203 Choice of sites and frequencies.

* * * * *

(c) Prior to the filing of an application, an earth station applicant shall coordinate the proposed frequency usage with existing terrestrial users and with applicants for terrestrial station authorizations with previously filed applications in accordance with the following procedure:

* * * * *

12. Section 25.279 is amended by revising paragraph (a) to read as follows:

§ 25.279 Inter-satellite service.

(a) Any satellite communicating with other space stations may use frequencies in the inter-satellite service as indicated in § 2.106 of this chapter. This does not preclude the use of other frequencies for such purposes as provided for in several service definitions, *e.g.*, FSS. The technical details of the proposed inter-satellite link shall be provided in accordance with § 25.114(c).

* * * * *

[FR Doc. 00–25388 Filed 10–3–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2147; MM Docket No. 00–22; RM–9795]

Radio Broadcasting Services; Charlotte, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 272A to Charlotte, Texas, in response to a petition filed by Kay-Zam Radio Company. See 65 FR 8931, February 23, 2000. The coordinates for Channel 272A at Charlotte are 28–46–00 NL and 98–42–00 WL. There is a site restriction 10.7 kilometers (6.7 miles) south of the community. A filing window for Channel 272A at Charlotte will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective November 6, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 00–22, adopted September 13, 2000, and released September 22, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Charlotte, Channel 272A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–25391 Filed 10–3–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2156; MM Docket No. 99–57; RM–9460, RM–9610]

Radio Broadcasting Services; Upton and Pine Haven, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Windy Valley Broadcasting, allots Channel 290C1 at Upton, Wyoming, as the community's first local aural transmission service (RM–9460). See 64 FR 8786, February 23, 1999. At the request of Mount Rushmore Broadcasting, Inc., we also allot Channel 283A at Upton, Wyoming, and Channel 259A at Pine Haven, Wyoming (RM–9610). Channels 283A and 290C1 can be allotted to Upton in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channels 283A and 290C1 at Upton are 44–05–54 North Latitude and 104–37–36 West Longitude. Additionally, Channel 259A can be allotted to Pine Haven in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 259A at Pine Haven are 44–21–28 North Latitude and 104–48–36 West Longitude.

DATES: Effective November 6, 2000. A filing window for Channels 283A and 290C1 at Upton, Wyoming, and Channel 259A at Pine Haven, Wyoming, will not be opened at this time. Instead, the issue of opening filing windows for these channels will be addressed by the Commission in a subsequent order.

ADDRESSES: Federal Communications Commission, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–57, adopted September 13, 2000, and released September 22, 2000. The full text of this Commission decision 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. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 54, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming is amended by adding Upton, Channels 283A and 290C1; and Pine Haven, Channel 259A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–25392 Filed 10–3–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2149; MM Docket No. 00–26; RM–9822]

Radio Broadcasting Services; Pearsall, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 277A to Pearsall, Texas, in response to a petition filed by The Pearsall Company. *See* 65 FR 11538, March 3, 2000. The coordinates for Channel 277A at Pearsall are 28–56–40 NL and 99–11–44 WL. There is a site restriction 11.3 kilometers (7 miles) northwest of the community. Although Mexican concurrence has been requested for Channel 277A at Pearsall as a specially negotiated short-spaced allotment, notification has not been received. Therefore, operation with the facilities specified for Pearsall herein is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the 1992 USA-Mexico FM Broadcast Agreement or if specifically objected to by Mexico. A filing window for Channel 277A at Pearsall will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective November 6, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 00–26, adopted September 13, 2000, and released September 22, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 277A at Pearsall.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–25396 Filed 10–3–00; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 65, No. 193
Wednesday, October 4, 2000

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–164–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, that currently requires a one-time inspection to detect cracking of the main landing gear (MLG) pistons, and repair or replacement of the pistons with new or serviceable parts, if necessary. This action would require, among other actions, repetitive dye penetrant and magnetic particle inspections to detect cracks of the MLG pistons; repair and replacement of discrepant parts; and installation of a preventative modification; as applicable. This action also would provide for an optional terminating action for certain MLG pistons. This proposal is prompted by additional reports of failure of the MLG pistons during towing of the airplanes. The actions specified by the proposed AD are intended to prevent fatigue cracking of the MLG pistons, which could result in failure of the pistons and subsequent damage to the airplane structure or injury to airplane occupants.

DATES: Comments must be received by November 20, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–164–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–164–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5237; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.,* reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–164–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–164–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On September 5, 1996, the FAA issued AD 96–19–09, amendment 39–9756 (61 FR 48617, September 16, 1996), applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, to require a one-time inspection to detect cracking of the main landing gear (MLG) pistons, and repair or replacement of the pistons with new or serviceable parts, if necessary. That action was prompted by reports of failure of the MLG pistons that occurred during towing of the airplanes. The requirements of that AD are intended to prevent fatigue cracking of the MLG pistons, which could result in failure of the pistons and subsequent damage to the airplane structure or injury to airplane occupants.

Actions Since Issuance of Previous Rule

Since the issuance of AD 96–19–09, the FAA has received additional reports of cracked MLG pistons on the affected airplanes. The FAA has determined that the one-time inspection of the MLG

pistons required by AD 96–19–09 does not adequately preclude fatigue cracking of the MLG pistons. Also, Boeing has completed its assessment to establish a life limit for the MLG pistons affected by this AD.

Explanation of Relevant Service Information

The manufacturer issued, and the FAA reviewed and approved, McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999. The service bulletin describes a new life limit (*i.e.,* 30,000 or 60,000 total landings, as applicable) for the affected MLG pistons. The service bulletin also describes the following improved procedures for the affected airplanes depending on the configuration:

- Performing repetitive dye penetrant and magnetic particle inspections to detect cracks of the MLG pistons. And
- Performing a preventative modification that involves various inspections to detect cracks of the MLG pistons; repair and replacement of discrepant parts, as applicable; wet grinding the rework area; flap shot peening the rework area; and reidentifying the MLG pistons. Accomplishment of the preventative modification stops the repetitive dye penetrant and magnetic particle inspections. And
- Flap shot peening, replacing the MLG piston with a new or serviceable MLG piston, and contacting Boeing for certain conditions.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 96–19–09 to require accomplishment of the actions specified in the service bulletin described previously, except as described below.

Error in Referenced Service Bulletin

For Group 1 airplanes, the referenced service bulletin incorrectly refers to paragraph 1.E. for the repetitive inspection schedule for Condition 3, Option 1 of the Accomplishment Instructions. Paragraph 1.E. does not contain such a repetitive inspection schedule.

Differences Between Proposed Rule and Service Bulletin

The effectivity listing of the referenced service bulletin lists the affected airplanes by groups (*i.e.,* Group 1, Group 2, and Group 3). The FAA finds that Group 1 and 2 airplanes do not include all of the affected modified pistons. For Groups 1 and 2, the referenced service bulletin only refers to pistons that have been inspected, replaced, or modified per prior issues of the service bulletin. However, affected pistons may have been modified per other service documents in addition to previous revisions of the referenced service bulletin. Also, the FAA finds no need to specifically reference MLG pistons that have been inspected or replaced per prior issues of the service bulletin, because the only thing that defines Groups 1 and 2 is whether the affected piston has been modified. The FAA also finds that Groups 1 and 2 of the referenced service bulletin do not include the specific affected MLG pistons [*i.e.,* part number (P/N) 5935347–1 through 5935347–509 inclusive]. Therefore, this proposed AD references the specific affected MLG pistons and whether that piston has been modified, rather than the airplanes specified in the service bulletin.

Operators also should note that, although the referenced service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposed AD would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

The referenced service bulletin also specifies that landing gear pistons, modified per one of the following conditions, are acceptable as having complied with the intent of the service bulletin:

1. As a result of procedure verification;
2. As a repair per operator's inquiry and Boeing disposition; or
3. As a preventative modification accomplished by operators who participated in the procedure verification prior to the issuance of this service bulletin revision. However, this proposed AD would require accomplishment of the actions in accordance with the procedures specified in the referenced service bulletin. Any other procedure may be used only if approved as an alternative method of compliance in accordance with paragraph (m) of this AD.

The referenced service bulletin recommends performing repetitive visual inspections to detect cracks in the topcoat paint of the MLG piston, performing a non-destructive testing (NDT) inspection, and contacting Boeing, if necessary. The FAA has determined that the repetitive inspections of the MLG pistons and eventual preventative modification required by this proposed AD adequately addresses the identified unsafe condition for the interim. Therefore, the repetitive visual inspections of the topcoat paint and NDT inspection are not required by the proposed AD.

For any piston having P/N 5935347–511 that has accumulated 30,000 or more total landings, the referenced service bulletin recommends either replacing the MLG piston with a new or serviceable MLG piston or contacting Boeing. The FAA has consulted with Boeing and determined that any piston having P/N 5935347–511 that has accumulated 30,000 or more total landings must be replaced. Therefore, the proposed AD only requires replacement of those pistons.

Operators also should note that, unlike the referenced service bulletin, the proposed AD provides for an optional terminating action for the requirements of the AD. The optional terminating action involves replacing all MLG pistons with MLG pistons having P/N 5935347–517, which are redesigned pistons that will adequately address the identified unsafe condition.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a replacement schedule to eventually remove all affected MLG pistons from the fleet and replace them with redesigned MLG pistons. Once this replacement schedule is developed, approved, and available, the FAA may consider additional rulemaking.

Cost Impact

There are approximately 1,200 Model DC–9–80 series airplanes and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 700 airplanes of U.S. registry would be affected by this proposed AD.

Should an operator be required to do the dye pernetrant and magnetic particle inspections, it would take approximately 2 work hours per MLG piston to accomplish the inspections, at an average lavor rate of $60 per work hour. Based on thes figures, the cost impact of these inspections proposed by this AD on U.S. operators is estimated to be $120 per MLG piston.

Should an operator be required to do the preventative modidfication, it would take approximately 6 work hours per MLG piston to accomplish the inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these inspections proposed by this AD on U.S.

operators is estimated to be $36 per MLG piston.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Should an operator elect to accomplish the optional terminating action that would be provided by this AD action, it would take approximately 31 work hours per MLG piston to accomplish it, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $107,070 per MLG piston. Based on these figures, the cost impact of the optional terminating action would be $108,930 per MLG piston.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9756 (61 FR 48617, September 16, 1996), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 99–NM–164–AD. Supersedes AD 96–19–09, Amendment 39–9756.

Applicability: Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes; and Model MD–88 airplanes; as listed in McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (m)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if 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 fatigue cracking of the main landing gear (MLG) pistons, which could result in failure of the pistons and subsequent damage to the airplane structure or injury to airplane occupants, accomplish the following:

For Airplanes on Which Certain Pistons Have Not Been Modified: Inspections

(a) For airplanes on which any MLG piston, part number (P/N) 5935347–1 through 5935347–509 inclusive, has NOT been modified: Do the actions specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable, per the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999.

(1) For any MLG piston that has accumulated less than 5,000 total landings since date of manufacture: Prior to the accumulation of 5,000 total landings on the MLG piston, or within 12 months after the effective date of this AD, whichever occurs later, do dye penetrant and magnetic particle inspections to detect cracks of the MLG pistons.

(2) For any MLG piston that has accumulated 5,000 or more total landings since date of manufacture, but less than 30,000 total landings since date of manufacture: Within 1,500 landings on the MLG piston or 12 months after the effective date of this AD, whichever occurs later, do dye penetrant and magnetic particle inspections to detect cracks of the MLG pistons.

(3) For any MLG piston that has accumulated 30,000 or more total landings since date of manufacture: Within 2 years or 5,000 landings on the MLG piston after the effective date of this AD, whichever occurs first, do the preventative modification (including inspections; corrective actions, if necessary; wet grind rework area; flap shot peen rework area; and reidentify the MLG pistons); except as required by paragraph (k) of this AD. Following accomplishment of the preventative modification, do the actions specified in paragraph (e) at the time indicated in that paragraph.

For Airplanes on Which Certain Pistons Have Not Been Modified: Condition 1 (No Crack)

(b) If no crack is found during any inspection required by either paragraph (a)(1) or (a)(2) of this AD, do the actions specified in either paragraph (b)(1) or (b)(2) of this AD.

(1) Condition 1, Option 1. Do the actions specified in either paragraph (b)(1)(i) or (b)(1)(ii) of this AD, and in paragraph (b)(1)(iii) of this AD.

(i) Repeat the inspections required by either paragraph (a)(1) or (a)(2) of this AD thereafter at intervals not to exceed 1,500 landings until the permanent modification required by paragraph (b)(1)(iii) of this AD has been done.

(ii) Before further flight, do the flap shot peening per McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999. Repeat the inspections required by either paragraph (a)(1) or (a)(2) of this AD thereafter at intervals not to exceed 2,500 landings until the permanent modification required by paragraph (b)(1)(iii) of this AD has been done.

(iii) Prior to the accumulation of 30,000 or more total landings on the MLG piston, do the preventative modification (including inspections; corrective actions, if necessary; wet grind rework area; flap shot peen rework area; and reidentify the MLG pistons), per the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999; except as required by paragraph (k) of this AD. Accomplishment of the permanent modification stops the repetitive inspection requirements of paragraphs (b)(1)(i) and (b)(1)(ii) of this AD. Following accomplishment of the preventative modification, do the actions specified in paragraph (e) at the time indicated in that paragraph.

(2) Condition 1, Option 2. Before further flight, do the preventative modification (including inspections; corrective actions, if necessary; wet grind rework area; flap shot peen rework area; and reidentify the MLG pistons) per Condition 1, Option 2, of the Accomplishment Instructions of McDonnell

Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999; except as required by paragraph (k) of this AD. Following accomplishment of the preventative modification, do the actions specified in paragraph (e) at the time indicated in that paragraph.

For Airplanes on Which Certain Pistons Have Not Been Modified: Condition 2 (Any Crack Within Limits)

(c) If any crack is found during any inspection required by either paragraph (a)(1) or (a)(2) of this AD, and that crack is within the limits specified in McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999, before further flight, do the action(s) specified in either paragraph (c)(1) or (c)(2) of this AD.

(1) Do the preventative modification (including inspections; corrective actions, if necessary; wet grind rework area; flap shot peen rework area; and reidentify the MLG pistons) per the Accomplishment Instructions of the service bulletin; except as required by paragraph (k) of this AD. Following accomplishment of the preventative modification, do the actions specified in paragraph (e) or (h) of this AD, as applicable, at the time indicated in that paragraph.

(2) Replace the MLG piston with a new or serviceable MLG piston per the service bulletin. Following accomplishment of the replacement, do the actions specified in paragraph (a), (e), or (h) of this AD, as applicable, at the time indicated in that paragraph.

For Airplanes on Which Certain Pistons Have Not Been Modified: Condition 3 (Any Crack Outside Limits)

(d) If any crack is found during any inspection required by either paragraph (a)(1) or (a)(2) of this AD that is outside the limits specified in McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999, before further flight, do the action(s) specified in paragraph (d)(1) or (d)(2) of this AD.

(1) Condition 3, Option 1. Replace the MLG piston with a new or serviceable MLG piston per the service bulletin. Following accomplishment of the replacement, do the actions specified in paragraph (a), (e), or (h) of this AD, as applicable, at the time indicated in that paragraph.

(2) Condition 3, Option 2. Repair per a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

For Airplanes on Which Certain Pistons Have Been Modified: Replacement or Inspections and Corrective Actions, If Necessary

(e) For airplanes on which any MLG piston, part number (P/N) 5935347–1 through 5935347–509 inclusive, has been modified:

(1) For any MLG piston that has accumulated 30,000 or more landings since accomplishment of the modification: Within 6 months after the effective date of this AD, replace the MLG piston with a new or serviceable MLG piston per the service bulletin. Following accomplishment of the replacement, do the actions specified in paragraph (a), (e), or (h) of this AD, as applicable, at the time indicated in that paragraph.

(2) For any MLG piston that has accumulated less than 30,000 landings since accomplishment of the modification: Do dye penetrant and magnetic particle inspections to detect cracks of the MLG pistons, per the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999; at the applicable time(s) specified in paragraph (e)(2)(i) or (e)(2)(ii) of this AD.

(i) For any MLG piston that has been modified per paragraph (a)(3), (b)(1)(iii), (b)(2), or (c)(1) of this AD, or that has been replaced with a modified MLG piston per paragraph (c)(2) or (d)(1) of this AD: Inspect within 2,500 landings following accomplishment of the modification or replacement with a modified MLG piston.

(ii) For any MLG piston that has been modified prior to the effective date of this AD: Inspect within 1,500 landings or 12 months after the effective date of this AD, whichever occurs later.

(f) If no crack is found during any inspection required by paragraph (e)(2) of this AD, repeat the dye penetrant and magnetic particle inspections required by paragraph (e)(2) of this AD thereafter at intervals not to exceed 2,500 landings. Prior to the accumulation of 30,000 or more total landings on the MLG piston, replace the MLG piston with a new or serviceable MLG piston per the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999. Following accomplishment of the replacement, do the actions specified in paragraph (a), (e), or (h) of this AD, as applicable, at the time indicated in that paragraph.

(g) If any crack is found during any inspection required by paragraph (e)(2) of this AD, before further flight, do the action(s) specified in either paragraph (d)(1) or (d)(2) of this AD.

For Airplanes on Which a Certain Piston Has Been Installed

(h) For airplanes on which any MLG piston, P/N 5935347–511, has been installed: Do the actions specified in paragraph (h)(1), (h)(2), or (h)(3) of this AD, as applicable, per the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999.

(1) For any MLG piston that has accumulated less than 5,000 total landings since date of manufacture: Prior to the accumulation of 5,000 total landings on the MLG piston, or within 12 months after the effective date of this AD, whichever occurs later, do dye penetrant and magnetic particle inspections to detect cracks of the MLG pistons.

(2) For any MLG piston that has accumulated 5,000 or more total landings since date of manufacture, but less than 30,000 total landings since date of manufacture: Within 1,500 landings on the MLG piston or 12 months after the effective date of this AD, whichever occurs later, do dye penetrant and magnetic particle inspections to detect cracks of the MLG pistons.

(3) For any MLG piston that has accumulated 30,000 or more total landings since date of manufacture: Within 6 months after the effective date of this AD, replace the MLG piston with a new or serviceable MLG piston per the service bulletin. Following accomplishment of the replacement, do the actions specified in paragraph (a), (e), or (h) of this AD, as applicable, at the time indicated in that paragraph.

(i) If no crack is found during any inspection required by either paragraph (h)(1) or (h)(2) of this AD, repeat the dye penetrant and magnetic particle inspections required by either paragraph (h)(1) or (h)(2) of this AD thereafter at intervals not to exceed 2,500 landings. Prior to the accumulation of 30,000 or more total landings on the MLG piston, do the actions specified in paragraph (d)(1) of this AD.

(j) If any crack is found during any inspection required by either paragraph (h)(1) or (h)(2) of this AD, before further flight, do the action(s) specified in either paragraph (d)(1) or (d)(2) of this AD.

Exception to Actions Referenced in Service Bulletin

(k) If any discrepancy is found during any inspection while accomplishing the preventative modification required by this AD, prior to further flight, do applicable corrective action(s) per McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999. If the service bulletin specifies to contact the manufacturer for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles ACO. For a repair method to be approved by the Manager, Los Angeles ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Optional Terminating Action

(l) Replacement of any MLG piston with a MLG piston, P/N 5935347–517, per McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999; constitutes terminating action for the requirements of this AD for that MLG piston.

Alternative Methods of Compliance

(m)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

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

(2) Alternative methods of compliance, approved previously in accordance with AD 96–19–09, amendment 39–9756, are approved as alternative methods of compliance with this AD.

Special Flight Permits

(n) Special flight permits may be issued in accordance with sections 21.197 and 21.199

of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on September 28, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–25434 Filed 10–3–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[MD–046–FOR]

Maryland Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: OSM is reopening the public comment period on a proposed amendment to the Maryland permanent regulatory program.(Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Maryland regulations regarding a definition of previously mined area, termination of jurisdiction, permitting requirements, bond release requirements and performance standards for inspections. The amendment is intended to revise the Maryland program to be no less effective than the corresponding Federal regulations.

DATES: If you submit written comments, they must be received by 4 p.m., E.D.T., October 19, 2000.

ADDRESSES: Mail or hand-deliver your written comments to Mr. George Rieger, Manager, Oversight and Inspection Office, at the address listed below. You may review copies of the Maryland program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM's Appalachian Regional Coordinating Center.

George Rieger, Manager, Oversight and Inspection Office, Appalachian Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh PA 15220, Telephone: (412) 937–2153, E-mail: *grieger@osmre.gov.*

Maryland Bureau of Mines, 160 South Water Street, Frostburg, Maryland 21532, Telephone: (301) 689–4136.

FOR FURTHER INFORMATION CONTACT: George Rieger, Manager, Oversight and Inspection Office, Appalachian Regional Coordinating Center, Telephone: (412) 937–2153.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

On February 18, 1982, the Secretary of the Interior approved the Maryland program. You can find background information on the Maryland program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the February 18, 1982, **Federal Register** (47 FR 7214). You can find subsequent actions concerning the conditions of approval and program amendments at 30 CFR 920.15 and 920.16.

II. Description of the Proposed Amendment

By letter dated September 14, 1999 (Administrative Record No. 577–04), Maryland provided an informal amendment to OSM regarding a definition of previously mined area, termination of jurisdiction, permitting requirements, bond release requirements and performance standards for inspections. Maryland submitted the informal amendment in response to requests made by OSM as required under 30 CFR 732.17(d) in letters dated July 8, 1997, and August 11, 1999 (Administrative Record Nos. 577–01 and 577–03, respectively). OSM completed its review of the informal amendment and submitted comments to Maryland in a letter dated March 20, 2000 (Administrative Record No. 577–05). By letter dated April 11, 2000 (Administrative Record No. MD–577–06), Maryland submitted its response to OSM's comments in the form of a proposed amendment to the Code of Maryland Regulations (COMAR). The proposed amendments were announced in the April 28, 2000, **Federal Register** (65 FR 24897). However, OSM's review determined that the proposed revisions to COMAR 26.20.31.02H regarding the inspection frequency on reclaimed bond forfeiture sites were inconsistent with 30 CFR 840.11 and 700.11(d). As a result, a letter requesting clarification was sent to Maryland dated August 17, 2000 (Administrative Record No. MD–577–12). Maryland responded in its letter dated August 31, 2000 (Administrative Record No. MD 577–13) with a new revision to COMAR 26.20.31.02H regarding the inspection frequency on reclaimed bond forfeiture sites. Therefore, OSM is reopening the public comment period regarding the following proposed amendments to Maryland's regulatory program:

1. *COMAR 26.20.31.02 Inspections.*

Maryland proposes to delete the existing paragraph H. in its entirety and substitute the following new paragraph H:

H. An abandoned site means a surface coal mining and reclamation operation for which the Bureau has found in writing that:

(1) All surface and underground coal mining and reclamation activities at the site have ceased;

(2) At least one notice of violation has been issued and the notice could not be served in accordance with Regulation .08 of this chapter or the notice was served and has progressed to a failure-to-abate cessation order;

(3) Action is being taken to ensure that the permittee and the operator, and owners and controllers of the permittee and the operator, will be precluded from receiving future permits while the violations continue at the site;

(4) Action is being taken in accordance with the requirements of the Regulatory Program to ensure that abatement occurs or that there will not be a recurrence of the failure-to-abate, except where after evaluating the circumstances it is concluded that further enforcement offers little or no likelihood of successfully compelling abatement or recovering any reclamation costs; and

(5) Where the site is or was permitted and bonded and the permit has either expired or been revoked, the forfeiture of any available performance bond is being diligently pursued or has been forfeited.

Maryland also proposes to add new paragraph I .as follows:

I. Instead of the inspection frequency required in § A and B of this regulation, the Bureau shall inspect each abandoned site on a set frequency commensurate with the public health and safety and environmental considerations present at each specific site. However, in no case shall the inspection frequency be set at less than one complete inspection per calendar year.

Maryland also proposes to add new paragraph J. as follows:

J. The Bureau shall conduct a complete inspection of the abandoned

site and provide the public notice required under § K of this regulation in order to select an alternative inspection frequency authorized under § I of this regulation. Following the inspection and public notice the Bureau shall prepare and maintain for public review a written finding that justifies the selected alternative inspection frequency. The written finding shall justify the new inspection frequency by addressing in detail all of the following criteria:

(1) How the site meets each of the criteria under the definition of abandoned site under § H of this regulation and thereby qualifies for a reduction in inspection frequency;

(2) Whether there exists on the site, and to what extent, impoundments, earthen structures, or other conditions that pose, or may reasonably be expected to ripen into, imminent dangers to the health and safety of the public or significant environmental harms to land, air, or water resources;

(3) The extent to which existing impoundments or earthen structures were constructed in accordance with prudent engineering designs approved in the permit;

(4) The degree to which erosion and sediment control is present and functioning;

(5) The extent to which the site is located near or above urbanized areas, communities, occupied dwellings, schools, and other public or commercial buildings and facilities;

(6) The extent of reclamation completed prior to abandonment and the degree of stability of unreclaimed areas taking into consideration the physical characteristics of the land mined and the extent of settlement or revegetation that has occurred naturally with them; and

(7) Based on a review of the complete and the partial inspection report record for the site during at least the last two consecutive years, the rate at which adverse environmental or public health and safety conditions can be expected to progressively deteriorate.

Maryland also proposes to add new paragraph K. as follows:

K. Public Notice

(1) The Bureau shall place a notice in the newspaper with the broadest circulation in the locality of the abandoned site providing the public with a 30-day period in which to submit written comments concerning the alternative inspection frequency.

(2) The public notice shall contain the:

(a) Permittee's name and permit number;

(b) Precise location of the land affected.

(c) Inspection frequency proposed.

(d) General reasons for reducing the inspection frequency;

(e) Bond status of the permit;

(f) Telephone number and address of the Bureau where written comments on the reduced inspection frequency may be submitted; and

(g) Closing date of the comment period.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. Specifically, OSM is seeking comments on the revisions to the State's regulations that were submitted on August 31, 2000 (Administrative Record No. MD–577–13). Comments should address whether the proposed amendment with these revisions satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Maryland program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 15-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. MD–046–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Appalachian Regional Coordinating Center at (412) 937–2153.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at the OSM Administrative Record Room (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of state regulatory programs and program amendments since each such program is drafted and promulgated by a specific state, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed state regulatory programs and program amendments submitted by the states must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing

federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program provision does not constitute a major federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

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

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

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

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

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 22, 2000.

Michael K. Robinson,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 00–25404 Filed 10–3–00; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA–119–FOR]

Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The program amendment consists of changes to the Virginia Surface Mining Reclamation Regulations concerning letters of credit. The amendment is intended to revise the Virginia program to be consistent with the corresponding Federal regulations.

DATES: If you submit written comments, they must be received on or before 4 p.m. (local time), on November 3, 2000. If requested, a public hearing on the proposed amendment will be held on October 30, 2000. Requests to speak at the hearing must be received by 4:00 p.m. (local time), on October 19, 2000.

ADDRESSES: Mail or hand-deliver your written comments and requests to speak at the hearing to Mr. Robert A. Penn, Director, Big Stone Gap Field Office at the address listed below.

You may review copies of the Virginia program, the proposed amendment, a listing of any scheduled hearings, and all written comments received in response to this document at the addresses below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM's Big Stone Gap Field Office.

Mr. Robert A. Penn, Director, Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, 1941 Neeley Road, Suite 201, Compartment 116,
Big Stone Gap, Virginia 24219, Telephone: (540) 523–4303, E-mail: rpenn@osmre.gov.

Virginia Division of Mined Land Reclamation, P. O. Drawer 900, Big Stone Gap, Virginia 24219, Telephone: (540) 523–8100, E-mail: whb@mme.state.va.us.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Penn, Director, Big Stone Gap Field Office; Telephone: (540) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program

On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program. You can find background information on the Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the December 15, 1981, **Federal Register** (46 FR 61085–61115). You can find later actions concerning the conditions of approval and program amendments at 30 CFR 946.12, 946.13, 946.15, and 946.16.

II. Discussion of the Proposed Amendment

By letter dated September 22, 2000 (Administrative Record Number VA–1008) the Virginia Department of Mines, Minerals and Energy (DMME) submitted an amendment to the Virginia program. In its letter, the DMME stated that the program amendment changes the Virginia program rules at 4 VAC 25–130–700.5 and 4 VAC 25–130–800.21 in response to amendments required by OSM in the May 3, 1999, **Federal Register** (64 FR 23542).

On May 3, 1999, OSM approved an amendment to the Virginia program which amended the Virginia Coal Surface Mining Control and Reclamation Act by adding ''letter of credit'' as an acceptable form of collateral bond to satisfy the performance bonding requirements of the Virginia Act. In our approval of the Virginia amendment, we required that the Virginia program regulations be

revised to be no less effective than the Federal regulations at 30 CFR 800.5(b), and 30 CFR 800.21(b)(2) concerning letters of credit. We codified this requirement at 30 CFR 946.16(a).

The amendment submitted by the DMME is described below.

4 VAC 25–130–700.5. Definitions.

The definition of ''Collateral bond'' is amended by adding a new paragraph (d) to read as follows.

(d) An irrevocable letter of credit of any bank organized or authorized to transact business in the United States, payable only to the Department at sight prepared in accordance with the Uniform Customs and Practices for Documentary Credits (1993 revision or the UCP revision current at the time of issuance of the letter of credit) International Chamber of Commerce (Publication No. 500).

4 VAC 25–130–800.21. Collateral bonds.

This provision is amended by revising paragraph (a) by adding the words ''except for letters of credit'' in the introductory sentence, adding a new paragraph (c), and re-lettering existing paragraph (c) as paragraph (d).

As amended, 4 VAC 25–130–800.21(a) reads as follows.

(a) Collateral bonds, except for letters of credit, shall be subject to the following conditions: The division shall. * * *

As amended, subsections 4 VAC 25–130–800.21(c) and (d) read as follows.

(c) Letters of credit shall be subject to the following conditions:

(1) The letter may be issued only by a bank organized or authorized to do business in the United States and must conform to the Uniform Customs and Practice for Documentary Credits (1993 Revision or revision current at the time of issuance of the letter of credit) International Chamber of Commerce (Publication No. 500);

(2) Letters of credit shall be irrevocable during their terms. A letter of credit used as security in areas requiring continuous bond coverage shall be forfeited and shall be collected by the division if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date; and

(3) The letter of credit shall be payable to the Department at sight, in part or in full, upon receipt from the division of a notice of forfeiture issued in accordance with 4 VAC 25–130–800.50.

(d) Persons with an interest in collateral posted as a bond, and who desire notification of actions pursuant to the bond, shall request the notification in writing to the division at the time collateral is offered.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments, on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Virginia program.

Written Comments

If you submit written or electronic comments on the proposed amendment during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments

Please submit Internet comments as an ASCII, Word Perfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. VA–119-FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Big Stone Gap Field office at (540) 523–4303.

Availability of Comments

Our practice is to make comments, including names and home addresses of respondents, available for public review during our regular business hours at the OSM Administrative Record Room (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing

If you wish to speak at the public hearing, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. (local time), on October 19, 2000. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with OSM representatives to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse

effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of state regulatory programs and program amendments since each such program is drafted and promulgated by a specific state, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed state regulatory programs and program amendments submitted by the states must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program provision does not constitute a major federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The state submittal which is the subject of this rule is based upon counterpart federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the state. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart federal regulation.

Small Business Regulatory Enforcement Fairness Act

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

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

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

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

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 946

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 26, 2000.

Michael K. Robinson,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 00–25403 Filed 10–3–00; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[WA–71–7146b; FRL–6879–7]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Environmental Protection Agency proposes to approve the Thurston County, Washington PM–10 area maintenance plan and redesignation request from nonattainment to attainment as revisions to the Washington State Implementation Plan. PM–10 air pollution is suspended particulate matter with a diameter less than or equal to a nominal ten micrometers.

In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated.

If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received in writing by November 3, 2000.

ADDRESSES: Written comments should be addressed to Debra Suzuki, Environmental Protection Specialist (OAQ–107), Office of Air Quality, at the EPA Regional Office listed below.

Copies of the State's request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and State of Washington Department of Ecology, 300 Desmond Drive, PO Box 47600, Olympia, Washington 98504–7600.

FOR FURTHER INFORMATION CONTACT: Scott Downey, Office of Air Quality (OAQ–107), EPA, Seattle, Washington, (206) 553–0682.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**.

Dated: September 12, 2000.

Michael F. Gearheard,

Acting Regional Administrator, Region 10.

[FR Doc. 00–25227 Filed 10–3–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6879–2]

South Carolina: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: South Carolina has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to South Carolina. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by November 3, 2000.

ADDRESSES: Send written comments to Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA, 30303–3104; (404) 562–8440. You can examine copies of the materials submitted by South Carolina during normal business hours at the following locations: EPA Region IV Library, Atlanta Federal Center, Library, 61 Forsyth Street, SW., Atlanta, Georgia 30303; phone number: (404) 347–4216, or the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201, phone number: (803) 896–4174.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, at the above address and phone number.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: September 15, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region IV.

[FR Doc. 00–25346 Filed 10–3–00; 8:45 am]

BILLING CODE 6560–50–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

40 CFR Part 1601

Freedom of Information Act Program

AGENCY: Chemical Safety and Hazard Investigation Board.

ACTION: Proposed rule.

SUMMARY: The Chemical Safety and Hazard Investigation Board proposes to adopt regulations for requesting and disclosing records under the Freedom of Information Act (FOIA). The FOIA requires Federal agencies to create regulations establishing procedures for its implementation. These regulations will ensure the proper handling of agency records and requests for those records under the FOIA.

DATES: Submit comments on or before November 3, 2000.

ADDRESSES: Address all comments concerning this proposed rule to Ray Porfiri, United States Chemical Safety and Hazard Investigation Board, 2175 K Street, NW., Suite 400, Washington, DC 20037–1809.

FOR FURTHER INFORMATION CONTACT: Ray Porfiri, 202–261–7629.

SUPPLEMENTARY INFORMATION: These proposed regulations implement the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended by the Electronic Freedom of Information Act Amendments of 1996, Public Law 104–231, 110 Stat. 3048. The Board proposes the following set of regulations to discharge its responsibilities under the FOIA. The FOIA establishes: basic procedures for public access to agency records and guidelines for waiver or reduction of fees the agency would otherwise assess for the response to the records request; categories of records that are exempt for various reasons from public disclosure; and basic requirements for Federal agencies regarding their processing of and response to requests for agency records. The Board invites comments from interested groups and members of the public on these proposed regulations.

Regulatory Flexibility Act

The Board, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this proposed regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for requesters. Thus, fees assessed by the Board will be nominal. Further, the ''small entities'' that make FOIA requests, as compared with individual requesters and other requesters, are relatively few in number.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, we did not deem any action necessary under the provisions of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, 109 Stat. 48.

List of Subjects in 40 CFR Part 1601

Administrative practice and procedure, Archives and records, Freedom of information.

For the reasons set forth in the preamble, the Chemical Safety and Hazard Investigation Board proposes to establish 40 CFR Chapter VI—Chemical Safety and Hazard Investigation Board, consisting of parts 1600 through 1699, and add part 1601 to read as follows:

PART 1601—-PROCEDURES FOR DISCLOSURE OF RECORDS UNDER THE FREEDOM OF INFORMATION ACT

Subpart A—PURPOSE, SCOPE, AND APPLICABILITY

Sec.

Authority: 5 U.S.C. 552, 553; 42 U.S.C. 7412 *et seq.*

Subpart A—Purpose, Scope, and Applicability

§ 1601.1 Purpose and scope.

This part contains the regulations of the Chemical Safety and Hazard Investigation Board (''CSB'' or ''Board'' or ''agency'') implementing the Freedom of Information Act (''FOIA''). These regulations provide procedures by which members of the public may obtain access to records compiled, created, and maintained by the CSB, along with procedures it must follow in response to such requests for records.

§ 1601.2 Applicability.

(a) *General.* The FOIA and the regulations in this part apply to all CSB documents and information. However, if another law sets specific procedures for disclosure, the CSB will process a request in accordance with the procedures that apply to those specific documents. If a request is received for disclosure of a document to the public which is not required to be released under those provisions, the CSB will consider the request under the FOIA and the regulations in this part.

(b) *Records available through routine distribution procedures.* When the record requested includes material published and offered for sale, *e.g.,* by the Superintendent of Documents of the Government Printing Office, or by an authorized private distributor, the CSB will first refer the requester to those sources. Nevertheless, if the requester is not satisfied with the alternative sources, the CSB will process the request under the FOIA.

§ 1601.3 Definitions.

Appeals Officer means the person designated by the Chairperson to process appeals of denials of requests for CSB records under the FOIA.

Business submitter means any person or entity which provides confidential business information, directly or indirectly, to the CSB and who has a proprietary interest in the information.

Chairperson means the Chairperson of the CSB (including, in the absence of a Chairperson, the Board Member supervising personnel matters) or his or her designee.

Commercial-use requester means requesters seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the CSB shall determine, whenever reasonably possible, the use to which a requester will put the documents requested. Where the CSB has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the CSB shall seek additional clarification before assigning the request to a specific category.

Confidential business information means records provided to the government by a submitter that arguably contain material exempt from disclosure under Exemption 4 of the FOIA, because disclosure could reasonably be expected to cause substantial competitive harm.

Direct costs means those expenditures by the CSB actually incurred in searching for and duplicating records to respond to a FOIA request. Direct costs include the salary of the employee or employees performing the work (the basic rate of pay for the employee plus a percentage of that rate to cover benefits) and the cost of operating duplicating machinery. Direct costs do not include overhead expenses, such as the cost of space and heating or lighting of the facility in which the records are stored.

Duplication refers to the process of making a copy of a document necessary to fulfill a FOIA request. Such copies can take the form of, among other things, paper copy, microform, audio-visual materials, or machine-readable documentation. The copies provided shall be in a form that is reasonably usable by requesters.

Educational institution refers to a preschool, a public or private elementary or high school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program of scholarly research.

FOIA Officer means the person designated to process requests for CSB documents under the FOIA.

Non-commercial scientific institution refers to an institution that is not operated on a commercial basis as that term is used above in defining *commercial-use requester*, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

Record includes any writing, drawing, map, recording, tape, film, photo, or other documentary material by which information is preserved.

Representative of the news media refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the public. For freelance journalists to be regarded as working for a news organization, they must demonstrate a solid basis for expecting publication through that organization. A publication contract would be the clearest proof, but components shall also look to the past publication record of a requester in making this determination.

Requester means any person, including an individual, Indian tribe, partnership, corporation, association, or public or private organization other than a Federal agency, that requests access to records in the possession of the CSB.

Review refers to the process of examining a record, in response to a FOIA request, to determine whether any portion of that record may be withheld under one or more of the FOIA exemptions. It also includes the processing of any record for disclosure; for example, redacting information that is exempt from disclosure under the FOIA. Review does not include time spent resolving general legal or policy issues regarding the use of FOIA exemptions.

Search refers to the time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within a document. The CSB shall ensure that searches are conducted in the most efficient and least expensive manner reasonably possible.

Submitter means any person or entity who provides information directly or indirectly to the CSB. The term includes, but is not limited to, corporations, Indian tribal governments, state governments, and foreign governments.

Working day means a Federal workday that does not include Saturdays, Sundays, or Federal holidays.

Subpart B—Administration

§ 1601.10 Protection of records.

(a) Except as authorized by this part or as otherwise necessary in performing official duties, no employee shall in any manner disclose or permit disclosure of any document or information in the possession of the CSB that is confidential or otherwise of a nonpublic nature, including that regarding the CSB, the Environmental Protection Agency or the Occupational Safety and Health Administration.

(b) No person may, without permission, remove from the place where it is made available any record made available to him for inspection or copying. Stealing, altering, mutilating, obliterating, or destroying, in whole or in part, such a record shall be deemed a crime.

§ 1601.11 Preservation of records pertaining to requests under this part.

The CSB will preserve all correspondence pertaining to the requests that it receives under this part, as well as copies of all requested records, until disposition or destruction is authorized by Title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Records will not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

§ 1601.12 Public reading room.

(a) The CSB maintains a public reading room that contains the records that the FOIA requires to be made regularly available for public inspection and copying as well as a current subject-matter index of its reading room records.

(b) Because of the lack of requests to date for material required to be indexed, the CSB has determined that it is unnecessary and impracticable to publish quarterly, or more frequently, and distribute (by sale or otherwise) copies of each index and supplements thereto, as provided in 5 U.S.C. 552(a)(2). However, the CSB will provide a copy of such indexes to a member of the public upon request, at a cost not to exceed the direct cost of duplication and mailing, if sending records by other than ordinary mail.

(c) The CSB maintains a public reading room at its headquarters: 2175 K Street, NW., Suite 400, Washington, DC 20037–1809.

(d) *Copying.* The cost of copying information available in the offices of the CSB shall be imposed on a requester in accordance with the provisions of §§ 1601.30 through 1601.33.

(e) The CSB also makes reading room records available electronically through the agency's World Wide Web site (which can be found at http://www.csb.gov). This includes the index of its reading room records, indicating which records are available electronically.

Subpart C—Procedures for Requesting and Disclosing Records

§ 1601.20 Requests for records.

(a) *Addressing requests.* Requests for records in the possession of the CSB shall be made in writing. The envelope and the request both should be clearly marked *FOIA Request* and addressed to: FOIA Officer, Chemical Safety and Hazard Investigation Board, 2175 K Street, NW., Suite 400, Washington, DC 20037–1809. A request improperly addressed will be deemed not to have been received for the purposes of § 1601.24(a) 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 section and which are not withholdable records may be obtained in person or by mail as specified in the request. 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 the CSB.

(b) *Description of records.* Each request must reasonably describe the desired records in sufficient detail to enable CSB personnel to locate the records with a reasonable amount of effort. A request for a specific category of records will be regarded as fulfilling this requirement if it enables responsive records to be identified by a technique or process that is not unreasonably burdensome or disruptive of CSB operations.

(1) Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record.

(2) If the FOIA Officer determines that a request does not reasonably describe the records sought, he or she will either advise the requester what additional information is needed to locate the record or otherwise state why the request is insufficient. The FOIA Officer will also extend to the requester an opportunity to confer with CSB personnel with the objective of reformulating the request in a manner which will meet the requirements of this section.

(c) *Agreement to pay fees.* A FOIA request shall be considered an agreement by the requester to pay all applicable fees charged under §§ 1601.30 through 1601.33 up to $25, unless the requester seeks a waiver of fees. The CSB ordinarily will confirm this agreement in an acknowledgement letter. When making a request, you may specify a willingness to pay a greater or lesser amount.

(d) *Types of records not available.* The FOIA does not require the CSB to:

(1) Compile or create records solely for the purpose of satisfying a request for records;

(2) Provide records not yet in existence, even if such records may be expected to come into existence at some future time; or

(3) Restore records destroyed or otherwise disposed of, except that the FOIA Officer must notify the requester that the requested records have been destroyed or otherwise disposed of.

§ 1601.21 Responses to requests.

(a) *Response to initial request.* The FOIA Officer is authorized to grant or deny any request for a record and to determine appropriate fees.

(b) *Referral to another agency.* When a requester seeks records that originated in another Federal government agency, the CSB will refer the request to the other agency for response. If the CSB refers the request to another agency, it will notify the requester of the referral. A request for any records classified by some other agency will be referred to that agency for response.

(c) *Creating records.* If a person seeks information from the CSB in a format that does not currently exist, the CSB will make reasonable efforts to provide the information in the format requested. The CSB will not create a new record of information to satisfy a request.

(d) *No responsive record.* If no records are responsive to the request, the FOIA Officer will so notify the requester in writing.

§ 1601.22 Form and content of responses.

(a) *Form of notice granting a request.* After the FOIA Officer has granted a request in whole or in part, the requester will be notified in writing. The notice shall describe the manner in which the record will be disclosed, whether by providing a copy of the record with the response or at a later date, or by making a copy of the record available to the requester for inspection at a reasonable time and place. The procedure for such an inspection may not unreasonably disrupt the operation

of the CSB. The response letter will also inform the requester of any fees to be charged in accordance with the provisions of §§ 1601.30 through 1601.33.

(b) *Form of notice denying a request.* When the FOIA Officer denies a request in whole or in part, he or she will so notify the requester in writing. The response will be signed by the FOIA Officer and will include:

(1) The name and title or position of the person making the denial;

(2) A brief statement of the reason or reasons for the denial, including the FOIA exemption or exemptions which the FOIA Officer has relied upon in denying the request; and

(3) A statement that the denial may be appealed under § 1601.23 and a description of the requirements of that section.

§ 1601.23 Appeals of denials.

(a) *Right of appeal.* If a request has been denied in whole or in part, the requester may appeal the denial to: FOIA Appeals Officer, Chemical Safety and Hazard Investigation Board, 2175 K Street, NW, Suite 400, Washington, DC 20037–1809.

(b) *Letter of appeal.* The appeal must be in writing and must be sent within 30 days of receipt of the denial letter. An appeal should 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. Both the envelope and the letter of appeal must be clearly marked *FOIA Appeal.* An appeal improperly addressed shall be deemed not to have been received for purposes of the 20-day time period set forth in § 1601.24(e) until it is received, or would have been received with the exercise of due diligence, by the Appeals Officer.

(c) *Action on appeal.* The disposition of an appeal will be in writing and will constitute the final action of the CSB on a request. A decision affirming in whole or in part the denial of a request will include a brief statement of the reason or reasons for affirmance, including each FOIA exemption relied on. If the denial of a request is reversed in whole or in part on appeal, the request will be processed promptly in accordance with the decision on appeal.

(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).

§ 1601.24 Timing of responses to requests.

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

(b) *Multitrack processing.* (1) The CSB may use two processing tracks by distinguishing between simple and more complex requests based on the amount of work and/or time needed to process the request, including according to limits based on the number of pages involved. If the agency does so, it shall advise requesters assigned to its slower track of the eligibility limits for its faster track.

(2) The agency may provide requesters in its slower track with an opportunity to limit the scope of their requests in order to qualify for faster processing within the specified limits of the agency's faster track. If it does so, the agency will contact the requester either by telephone or by letter, whichever is most efficient in each case.

(c) *Unusual circumstances.* (1) Where the time limits for processing a request cannot be met because of unusual circumstances and the CSB determines to extend the time limits on that basis, the agency shall as soon as practicable notify the requester in writing of the unusual circumstances and of the date by which processing of the request can be expected to be completed. Where the extension is for more than ten working days, the CSB shall provide the requester with an opportunity either to modify the request so that it may be processed within the time limits or to arrange an alternative time period for processing the request or a modified request.

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

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

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

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

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest in which there exists possible questions about the government's integrity which affect public confidence.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time.

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

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

(e) *Appeals.* A written determination on an appeal submitted in accordance with § 1601.23 will be issued within 20 working days after receipt of the appeal. This time limit may be extended in unusual circumstances up to a total of 10 working days 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. 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 the CSB that have a substantial interest in the records requested.

(f) 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.

§ 1601.25 Disclosure of requested records.

(a) The FOIA Officer shall make requested records available to the public to the greatest extent possible in keeping with the FOIA, except that the following records are exempt from the disclosure requirements:

(1) Records specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and which are, in fact, properly classified pursuant to such Executive Order;

(2) Records related solely to the internal personnel rules and practices of the CSB;

(3) Records specifically exempted from disclosure by statute (other than 5 U.S.C. § 552(b)) provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or that the statute establishes particular criteria for withholding information or refers to particular types of matters to be withheld;

(4) Records containing trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the CSB;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) 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 a 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 which furnished information on a confidential basis, and in the case of a record or information compiled by 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) Records contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Geological or geophysical information and data, including maps, concerning wells.

(b) If a requested record contains exempted material along with nonexempted material, all reasonably segregable nonexempt material shall be disclosed.

(c) Even if an exemption described in paragraph (a) of this section may be reasonably applicable to a requested record, or portion thereof, the CSB may elect under the circumstances of any particular request not to apply the exemption to such requested record, or portion thereof, subject to the provisions in § 1601.26 for confidential business information. The fact that the exemption is not applied by the CSB to any requested record, or portion thereof, has no precedential significance as to the application or non-application of the exemption to any other requested record, or portion thereof, no matter when the request is received.

§ 1601.26 Special procedures for confidential business information.

(a) *In general.* Confidential business information provided to the CSB by a business submitter shall not be disclosed pursuant to a FOIA request except in accordance with this section.

(b) *Designation of business information.* Business submitters should use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, those portions of their submissions which they deem to be protected under Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4). Any such designation will expire 10 years after the records were submitted to the government, unless the submitter requests, and provides reasonable justification for, a designation period of longer duration.

(c) *Predisclosure notification.* (1) Except as is provided for in paragraph (h) of this section, the FOIA Officer shall, to the extent permitted by law, provide a submitter with prompt written notice of a FOIA request or administrative appeal encompassing its confidential business information whenever required under paragraph (d) of this section. Such notice shall either describe the exact nature of the business information requested or provide copies of the records or portions thereof containing the business information.

(2) Whenever the FOIA Officer provides a business submitter with the notice set forth in this paragraph, the FOIA Officer shall notify the requester that the request includes information that may arguably be exempt from disclosure under Exemption 4 of the FOIA and that the person or entity who submitted the information to the CSB has been given the opportunity to comment on the proposed disclosure of information.

(d) *When notice is required.* The CSB shall provide a business submitter with notice of a request whenever:

(1) The business submitter has in good faith designated the information as business information deemed protected from disclosure under 5 U.S.C. 552(b)(4); or

(2) The CSB has reason to believe that the request seeks business information the disclosure of which may result in substantial commercial or financial injury to the business submitter.

(e) *Opportunity to object to disclosure.* Through the notice described in paragraph (c) of this section, the CSB shall, to the extent permitted by law, afford a business submitter at least 10 working days within which it can provide the CSB with a detailed written statement of any objection to disclosure. Such statement shall demonstrate why the information is contended to be a trade secret or commercial or financial information that is privileged or confidential and why disclosure would cause competitive harm. Whenever possible, the business submitter's claim of confidentiality should be supported by a statement or certification by an officer or authorized representative of the business submitter. Information

provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the FOIA.

(f) *Notice of intent to disclose.* (1) The FOIA Officer shall consider carefully a business submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose confidential commercial business information. Whenever the FOIA Officer decides to disclose such information over the objection of a business submitter, the FOIA Officer shall forward to the business submitter a written notice at least 10 working days before the date of disclosure containing:

(i) A statement of the reasons for which the business submitter's disclosure objections were not sustained,

(ii) A description of the confidential commercial information to be disclosed, and

(iii) A specified disclosure date.

(2) Such notice of intent to disclose likewise shall be forwarded to the requester at least 10 working days prior to the specified disclosure date.

(g) *Notice of FOIA lawsuit.* Whenever a requester brings suit seeking to compel disclosure of confidential business information, the FOIA Officer shall promptly notify the business submitter of such action.

(h) *Exceptions to predisclosure notification.* The requirements of this section shall not apply if:

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

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

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) The designation made by the submitter in accordance with paragraph (b) of this section appears obviously frivolous; except that, in such a case, the FOIA Officer will provide the submitter with written notice of any final decision to disclose confidential business information within a reasonable number of days prior to a specified disclosure date.

Subpart D—Fees

§ 1601.30 Fees to be charged—-general.

(a) *Policy.* Generally, the fees charged for requests for records pursuant to 5 U.S.C. 552 shall cover the full allowable direct costs of searching for, reproducing, and reviewing records that are responsive to a request for information. Fees shall be assessed according to the schedule contained in paragraph (b) of this section and the category of requesters described in § 1601.31 for services rendered by the CSB staff in responding to, and processing requests for, records under this part. Fees assessed will be paid by check or money order payable to the United States Treasury.

(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.* For each quarter hour spent in searching for and/or reviewing a requested record, the fees will be: $4.00 for clerical personnel; $8.00 for professional personnel; and $11.00 for managerial personnel.

(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 central processing unit for that portion of operating time that is directly attributable to searching for records and the operator/programmer salary, i.e., basic pay plus 16 percent, apportionable to the search. A charge shall 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 the CSB for the type and amount of such supplies or 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 section or § 1601.32. The CSB will not alter or develop programming to conduct a search.

(iii) *Unproductive searches.* The CSB will charge search fees even if no records are found which are responsive to the request or if the records found are exempt from disclosure.

(2) *Duplication.* Records will be reproduced at a rate of $0.25 per page. For copies prepared by computer, such as tapes or printouts, the requester shall 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) shall be charged.

(3) *Review.* Only commercial-use requesters 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 the CSB 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 subsequent review are properly assessable.

(4) *Other services and materials.* Where the CSB 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.

§ 1601.31 Fees to be charged—categories of requesters.

(a) *Fees for various requester categories.* Paragraphs (b) through (e) of this section state, for each category of requester, the types of fees generally charged by the CSB. However, for each of these categories, the fees may be limited, waived or reduced in accordance with the provisions set forth in § 1601.32(c). If the CSB has reasonable cause to doubt the purpose specified in the request for which a requester will use the records sought, or where the purpose is not clear from the request itself, the CSB will seek clarification before assigning the request a specific category.

(b) *Commercial use requester.* The CSB shall charge fees for records requested by persons or entities making a commercial use request in an amount that equals the full direct costs for searching for, reviewing for release, and reproducing the records sought. Commercial use requesters are not entitled to 2 hours of free search time nor 100 free pages of reproduction of records. In accordance with § 1601.30, commercial use requesters may be charged the costs of searching for and reviewing records even if there is ultimately no disclosure of records.

(c) *Educational and noncommercial scientific institutions.* The CSB shall charge fees for records requested by, or on behalf of, educational institutions and noncommercial scientific institutions in an amount which equals the cost of reproducing the records responsive to the request, excluding the cost of reproducing the first 100 pages. No search fee shall be charged with respect to requests by educational and noncommercial scientific institutions. For a request to be included in this category, requesters must show that the request being made is authorized by and under the auspices of a qualifying institution, and that the records are not

sought for commercial use but are sought in furtherance of scholarly research (if the request is from an educational institution) or scientific research (if the request is from a noncommercial scientific institution).

(d) *News media.* The CSB shall charge fees for records requested by representatives of the news media in an amount which equals the cost of reproducing the records responsive to the request, excluding the costs of reproducing the first 100 pages. No search fee shall be charged with respect to requests by representatives of the news media. For a request to be included in this category, the requester must qualify as a representative of the news media and the request must not be made for a commercial use. A request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for commercial use.

(e) *All other requesters.* The CSB shall charge fees for records requested by persons or entities that are not classified in any of the categories listed in paragraphs (b), (c), or (d) of this section in an amount that equals the full reasonable direct cost of searching for and reproducing records that are responsive to the request, excluding the first 2 hours of search time and the cost of reproducing the first 100 pages of records. In accordance with § 1601.30, requesters in this category may be charged the cost of searching for records even if there is ultimately no disclosure of records, excluding the first 2 hours of search time.

(f) For purposes of the exceptions contained in this section on assessment of fees, the word *pages* refers to paper copies of 8½ × 11 inches or 11 × 14 inches. Thus, requesters are not entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or a computer disk containing the equivalent of 100 pages of computer printout meets the terms of the exception.

(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, the CSB will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of the search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of 2 hours of the salary plus 16 percent of the person performing the search, *i.e.*, the operator, the CSB will begin assessing charges for the computer.

§ 1601.32 Limitations on charging fees.

(a) *In general.* Except for requesters seeking records for a commercial use as described in § 1601.31(b), the CSB will provide, without charge, the first 100 pages of duplication and the first 2 hours of search time, or their cost equivalent.

(b) *No fee charged.* The CSB will not charge fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself. The elements to be considered in determining the cost of collecting a fee are the administrative costs of receiving and recording a requester's remittance and of processing the fee.

(c) *Waiver or reduction of fees.* The CSB may grant a waiver or reduction of fees if the CSB determines that the disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Federal government, and the disclosure of the information is not primarily in the commercial interest of the requester. Requests for a waiver or reduction of fees will be considered on a case-by-case basis.

(1) The following factors will be considered by the CSB in determining whether a waiver or reduction of fees is in the public interest:

(i) *The subject of the request.* Whether the subject of the requested records concerns the operations or activities of the government. The subject matter of the requested records, in the context of the request, must specifically concern identifiable operations or activities of the Federal government with a connection that is direct and clear, not remote or attenuated. Furthermore, the records must be sought for their informative value with respect to those government operations or activities; a request for access to records for their intrinsic informational content alone will not satisfy this threshold consideration.

(ii) *The informative value of the information to be disclosed.* Whether the disclosure is likely to contribute to an understanding of government operations or activities. The disclosable portions of the requested records must be meaningfully informative on specific government operations or activities in order to hold potential for contributing to increased public understanding of those operations and activities. The disclosure of information that is already in the public domain, in either a duplicative or substantially identical form, would not be likely to contribute to such understanding, as nothing new would be added to the public record.

(iii) *The contribution to an understanding of the subject by the general public.* Whether disclosure of the requested information will contribute to the public understanding. The disclosure must contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons. A requester's identity and qualifications, *e.g.*, expertise in the subject area and ability and intention to convey information to the general public, will be considered.

(iv) *The significance of the contribution in public understanding.* Whether the disclosure is likely to significantly enhance the public understanding of government operations or activities. The public's understanding of the subject matter in question, as compared to the level of public understanding existing prior to the disclosure, must be likely to be enhanced by the disclosure to a significant extent. The FOIA Officer shall not make a separate value judgment as to whether information, even though it in fact would contribute significantly to public understanding of the operations or activities of the government, is ''important'' enough to be made public.

(2) In order to determine whether the second fee waiver requirement is met, *i.e.*, that disclosure of the requested information is not primarily in the commercial interest of the requester, the CSB shall consider the following two factors in sequence:

(i) *The existence and magnitude of a commercial interest.* Whether the requester, or any person on whose behalf the requester may be acting, has a commercial interest that would be furthered by the requested disclosure. In assessing the magnitude of identified commercial interests, consideration will be given to the effect that the information disclosed would have on those commercial interests, as well as to the extent to which FOIA disclosures serve those interests overall. Requesters shall be given a reasonable opportunity in the administrative process to provide information bearing upon this consideration.

(ii) *The primary interest in disclosure.* Whether the magnitude of the identified commercial interest of the requester is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester. A fee waiver or reduction is warranted only where, once the public interest standard set out in paragraph (c)(1) of this section is satisfied, that public

interest can fairly be regarded as greater in magnitude than that of the requester's commercial interest in disclosure. The CSB will ordinarily presume that, where a news media requester has satisfied the public interest standard, the public interest will be serviced primarily by disclosure to that requester. Disclosure to requesters who compile and market Federal government information for direct economic gain will not be presumed to primarily serve the public interest.

(3) Where only a portion of the requested record satisfies the requirements for a waiver or reduction of fees under this paragraph, a waiver or reduction shall be granted only as to that portion.

(4) A request for a waiver or reduction of fees must accompany the request for disclosure of records and should include:

(i) A clear statement of the requester's interest in the records;

(ii) The proposed use of the records and whether the requester will derive income or other benefit from such use;

(iii) A statement of how the public will benefit from release of the requested records; and

(iv) If specialized use of the documents is contemplated, a statement of the requester's qualifications that are relevant to the specialized use.

(5) A requester may appeal the denial of a request for a waiver or reduction of fees in accordance with the provisions of § 1601.23.

§ 1601.33 Miscellaneous fee provisions.

(a) *Notice of anticipated fees in excess of $25.* Where the CSB determines or estimates that the fees chargeable will amount to more than $25, the CSB shall promptly notify the requester of the actual or estimated amount of fees or such portion thereof that can be readily estimated, unless the requester has indicated his or her willingness to pay fees as high as those anticipated. Where a requester has been notified that the actual or estimated fees may exceed $25, the request will be deemed not to have been received until the requester has agreed to pay the anticipated total fee. A notice to the requester pursuant to this paragraph will include the opportunity to confer with CSB personnel in order to reformulate the request to meet the requester's needs at a lower cost.

(b) *Aggregating requests.* A requester may not file multiple requests at the same time, each seeking portions of a record or records, solely in order to avoid the payment of fees. When the CSB reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request into a series of requests for the purpose of evading the assessment of fees, the CSB may aggregate such requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred. The CSB will presume that multiple requests of this type made within a 30-day period have been made in order to evade fees. Where requests are separated by a longer period, the CSB shall aggregate them only where there exists a solid basis for determining that such aggregation is warranted, *e.g.,* where the requests involve clearly related matters. Multiple requests regarding unrelated matters will not be aggregated.

(c) *Advance payment of fees.* (1) The CSB does not require an advance payment before work is commenced or continued, unless:

(i) The CSB estimates or determines that the fees are likely to exceed $250. If it appears that the fees will exceed $250, the CSB will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees. In the case of requesters with no history of payment, the CSB may require an advance payment of fees in an amount up to the full estimated charge that will be incurred; or

(ii) The requester has previously failed to pay a fee in a timely fashion, *i.e.,* within 30 days of the date of a billing. In such cases, the CSB may require the requester to pay the full amount owed plus any applicable interest, as provided in paragraph (d) of this section, or demonstrate that the fee owed has been paid, prior to processing any further record request. Under these circumstances, the CSB may require the requester to make an advance payment of the full amount of the fees anticipated before processing a new request or finishing processing of a pending request from that requester.

(2) A request for an advance deposit shall ordinarily include an offer to the requester to confer with identified CSB personnel to attempt to reformulate the request in a manner which will meet the needs of the requester at a lower cost.

(3) When the CSB requests an advance payment of fees, the administrative time limits described in 5 U.S.C. 552(a)(6) begin only after the CSB has received the advance payment.

(d) *Interest.* The CSB may assess interest charges on an unpaid bill starting on the 31st day following the day on which the bill was sent. Once a fee payment has been received by the CSB, even if not processed, the accrual of interest shall be stayed. Interest charges shall be assessed at the rate prescribed in 31 U.S.C. 3717 and shall accrue from the date of the billing.

(e) Whenever a total fee calculated under paragraph (d) of this section is $14.00 or less for any request, no fee will be charged.

Dated: September 26, 2000.

Christopher W. Warner,

General Counsel

[FR Doc. 00–25300 Filed 10–3–00; 8:45 am]

BILLING CODE 6350–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2146, MM Docket No. 00–171, RM–9926]

Radio Broadcasting Services; Woodville and Wells, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Radio Woodville, Inc. requesting the reallotment of Channel 234C2 from Woodville, Texas, to Wells, Texas, and modification of the license for Station KVLL to specify Wells, Texas, as the community of license. The coordinates for Channel 234C2 at Wells are 31–12–37 and 94–57–15. In accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 234C2 at Wells.

DATES: Comments must be filed on or before November 13, 2000, and reply comments on or before November 28, 2000.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Mark N. Lipp, Scott C. Cinnamon, Shook, Hardy & Bacon, 600 14th Street, NW, suite 800, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–171, adopted September 13, 2000, and released September 22, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the

Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805. Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–25390 Filed 10–3–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2161; MM Docket No. 00–174, RM–9965]

Radio Broadcasting Services; Kailua-Kona, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Nick Koster proposing the allotment of Channel 244A at Kailua-Kona, Hawaii, as the community's second local aural transmission service. Channel 244A can be allotted to Kailua-Kona in compliance with the Commission's minimum distance separation requirements with no site restriction. The coordinates for Channel 244A at Kailua-Kona are 19–38–26 North Latitude and 155–59–44 West Longitude.

DATES: Comments must be filed on or before November 13, 2000, and reply comments on or before November 28, 2000.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Nick Koster, P.O. Box 340091, Austin, TX 78734.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–174; adopted September 13, 2000 and released September 22, 2000. The full text of this Commission decision 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. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–25393 Filed 10–3–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2161; MM Docket No. 00–173, RM–9964]

Radio Broadcasting Services; Burgin, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Vernon R. Baldwin proposing the allotment of Channel 290A at Burgin, Kentucky, as the community's first local aural transmission service. Channel 290A can be allotted to Burgin in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.01 kilometers (3.11 miles) southeast of city reference coordinates. The coordinates for Channel 290A at Burgin are 37–42–56 North Latitude and 84–44–08 West Longitude.

DATES: Comments must be filed on or before November 13, 2000, and reply comments on or before November 28, 2000.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows, Dennis F. Begley, Esq., Reddy, Begley & McCormick, 2175 K Street, NW., Suite 350, Washington, DC 20037 (Counsel for Vernon R. Baldwin)

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–173; adopted September 13, 2000, and released September 22, 2000. The full text of this Commission decision 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. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–25394 Filed 10–3–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2161; MM Docket No. 00–172, RM–9963

Radio Broadcasting Services; McConnelsville, OH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Donald Staats proposing the allotment of Channel 279A at McConnelsville, Ohio, as the community's second local aural transmission service. Channel 279A can be allotted to McConnelsville in compliance with the Commission's minimum distance separation requirements with a site restriction of 0.7 kilometers (0.4 miles) east of city reference coordinates. The coordinates for Channel 279A at McConnelsville are 39–38–48 North Latitude and 81–50–43 West Longitude.

DATES: Comments must be filed on or before November 13, 2000, and reply comments on or before November 28, 2000.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Donald Staats, 2503 Twelfth Ave., Vienna, WV. 26105

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–172; adopted September 13, 2000 and released September 22, 2000. The full text of this Commission decision 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. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–25395 Filed 10–3–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 000922272-0272-01;I.D. 061600A]

RIN 0648-AO16

Taking of the Cook Inlet (CI), Alaska, Stock of Beluga Whales by Alaska Natives

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

ACTION: Proposed rule; notice of hearing; request for comments.

SUMMARY: NMFS is proposing regulations under the Marine Mammal Protection Act (MMPA) that would limit the harvest and use of CI beluga whales. The management objectives of the proposed regulations are to recover this depleted stock to its Optimum Sustainable Population (OSP) level, and to provide for the continued traditional subsistence use by Alaska Natives. The MMPA imposes a general moratorium on the taking of marine mammals; however, it provides an exception to the moratorium that allows Alaska Natives to harvest marine mammals for subsistence use or for traditional Native handicrafts. Under the MMPA, the Federal government may regulate Native subsistence harvest when the stock in question is designated as depleted pursuant to the MMPA and after regulations specific to the depleted stock are issued. NMFS designated the CI beluga whale stock as depleted on May 31, 2000 and believes that control of the harvest is necessary to promote recovery of this stock. NMFS has also prepared a National Environmental Policy Act (NEPA) Draft Environmental Impact Statement (DEIS) on this proposed action. NMFS solicits public comments on the proposed rule and the DEIS..

DATES: Comments on the proposed rule and on the DEIS must be received in the Office of Protected Resources (see **ADDRESSES** no later than 5 pm, eastern standard time, on November 27, 2000.

NMFS has scheduled a formal on-the-record hearing regarding these proposed regulations before Administrative Law Judge Parlen McKenna, to commence at 9 am, December 5, 2000, in Anchorage, Alaska, at the Federal Building. A pre-hearing conference is scheduled at 9 am, November 15, 2000.

Filing Deadlines: By November 1, 2000, any interested person or party must file an initial notice of intent to participate in the hearing, any direct testimony and any documentary evidence. By November 15, 2000, any rebuttal testimony and documentary evidence must be filed. Interested parties should consult procedural regulations at 50 CFR part 228 (65 FR 39560, June 27, 2000) for additional deadlines and hearing procedures.

ADDRESSES: Written comments on the proposed rule and DEIS should be sent to Chief, Marine Mammal Division, Office of Protected Resources, Silver Spring, MD 20910. Comments will not be accepted if submitted via e-mail or Internet.

All filings, including those of NMFS, become part of the record. The record for the proposed rule and the DEIS are available and all original filings and written comments should be filed at: Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. One copy should also be filed at: ALJ Docketing Center, 40 South Gay Street, Room 412, Baltimore, Maryland 21202-4022. Fax copies are accepted at (410) 962-1746 or -1742. Another copy should also be filed at: Judge Parlen McKenna, U.S. Coast Guard Island, Building 54-C, Alameda, California 94501, email *PMcKenna@D11.USCG.mil*, (510) 437-3361, fax (510) 437-2717.

Also, the record for the proposed rule and the DEIS is available at NMFS Alaska Region, 709 W. 9th St, Federal Building room 461, Juneau, AK 99802. Information related to the hearing and the DEIS will be available on the NMFS, Alaska Region Protected Resources website at: http://www.fakr.noaa.gov/protectedresources/whales/beluga.htm

FOR FURTHER INFORMATION CONTACT: Barbara Mahoney, NOAA/NMFS, Alaska Region, Anchorage Field Office, (907) 271-5006, fax (907) 271-3030, or Michael Payne, NOAA/NMFS, Alaska Region, (907) 586-7235, fax (907) 586-7012, or Thomas Eagle, Office of

Protected Resources, (301) 713-2322, ext. 105, fax (301) 713-4060.

SUPPLEMENTARY INFORMATION:

Background

The MMPA was enacted to conserve and protect marine mammals by regulating activities of U.S. citizens and activities of all persons conducted within the jurisdiction of the United States. As such, the MMPA imposes a general moratorium on the taking of marine mammals. However, it also provides an exception to the moratorium by allowing ''any Indian, Aleut or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean . . .'' to take any marine mammal if such taking is for subsistence purposes or for creating traditional Native handicrafts and is not accomplished in a wasteful manner.

Under the MMPA, the Federal government may regulate Native subsistence harvest when the stock in question is designated as depleted pursuant to the MMPA, and after regulations specific to the depleted stock are issued (16 U.S.C. 1371). Whenever a species or stock of marine mammal subject to taking by Indian, Aleut, or Eskimo has been determined to be depleted, the Secretary of Commerce (Secretary) may limit the harvest using the following procedures, which are found in section 101(b)(3) of the MMPA:

> [The Secretary] may prescribe regulations upon such taking of such marine mammals by any Indian, Aleut, or Eskimo described in this subsection. Such regulations may be established with reference to species or stocks, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations and consistent with the purposes of this Act. Such regulations shall be prescribed after notice and hearing required by section 103 of this title and shall be removed as soon as possible as the Secretary determines that the need for their imposition has disappeared.

On May 31, 2000, NMFS designated the CI stock of beluga whales as depleted pursuant to the MMPA (65 FR 34590). Abundance estimates from surveys conducted between 1994 and 1998 indicated that the number of individuals in this stock declined dramatically during this period. The 1998 estimate (347 animals) was nearly 50 percent lower than the 1994 estimate (653 animals). This represents a decline of 15 percent per year. The Native harvest is the only factor that has been identified to account for the observed level of decline, and, therefore, the control of the harvest is directly related to the immediate protection for this stock.

Furthermore, reports from Alaska Native hunters and estimates derived from counts made by the Alaska Department of Fish and Game in the 1960s and 1970s indicate that the historical abundance of the stock exceeded 1,000 beluga whales. Observations of Alaska Native hunters also support these numbers. NMFS currently estimates that the maximum historical abundance of the stock is 1,300 whales. This estimate is based on the results of an abundance survey by the Alaska Department of Fish and Game (ADFG) in 1979 that resulted in a minimum abundance estimate of 1,293 whales (Calkins, 1989). Therefore, the extent of depletion (as a proportion of maximum historical abundance) is much greater than the dedicated surveys from 1994-1999 indicate.

The following information is a summary of available information on the abundance, trend and harvest levels for the CI stock of beluga whales. A more detailed discussion of this information is included in the final rule to designate the stock as depleted (65 FR 34590, May 31, 2000) and in the final determination on the status of the stock under the Endangered Species Act (ESA) (65 FR 38778, June 22, 2000).

The CI stock is genetically and geographically isolated from the other Alaskan stocks of beluga whales. When NMFS learned that the harvest may be above levels that the stock could sustain, NMFS initiated studies to document the levels of the harvest and the abundance and trend of the stock. Abundance surveys from 1994 though 1998 indicated a decline from 653 to 347 whales during that period. However, NMFS believes that the stock was in decline when the abundance surveys were initiated.

There are no reliable mortality estimates prior to 1994. Prior to 1994 the harvest estimates do not include an estimate of those struck but lost, nor do they represent a complete effort of harvest. However, Native hunter groups and some individual hunters provided NMFS with documented information on the harvest levels from 1995 through 1998. The sources of these data include estimates by ADFG, the Cook Inlet Marine Mammal Council (CIMMC), and data compiled by NMFS based on reports from hunters, and from the direct observation of harvested whales.

Based on this information, NMFS estimated that the average annual take in this harvest, including whales that were struck and lost, was 65 whales per year from 1994 through 1998. The estimated annual average harvest from 1995 thru 1997 (including struck but lost) was 87 whales. Annual harvest estimates for 1994 thru 1998 are 21 whales (1994), 68 whales (1995), 123 whales (1996), 70 whales (1997) and 42 whales (1998). The harvest, which was as high as 20 percent of the stock in 1996, was sufficiently high to account for the 14 percent annual rate of decline in the stock during the period from 1994 through 1998. The numbers of animals harvested between 1994 and 1998 can account for the estimated decline of the stock during that interval. Therefore, the annual harvest estimates and rate of decline from 1994 through 1998 clearly indicate that the harvest was unsustainable prior to restriction in 1999. Therefore, the protection of this stock of beluga whales is directly related to the control of the harvest.

In 1999, there was no subsistence harvest. On May 21, 1999, President Clinton signed into effect Pub. L. 106-31, 113 Stat. 100 (hereafter referred to as Pub. L. 106-31). As a result of this legislation, and in combination with the voluntary moratorium by the hunters in spring, there were no CI beluga whales harvested in 1999. NMFS and CIMMC have negotiated a co-management agreement under this legislation that authorized the harvest of a single beluga whale in Cook Inlet in 2000.

The 1999 abundance estimate was 357 whales. Although a single year under the restricted harvest is insufficient to detect a population response, the lack of continued decline is an encouraging indication that restricting the harvest could promote recovery of the stock.

The Proposed Regulations

The depleted determination on May 31, 2000 (65 FR 34590), was a preliminary step for the Federal government to regulate the taking of marine mammals by Alaska Natives. NMFS is proposing to regulate the harvest of CI beluga whales by Alaska Natives under section 101(b)(3) of the MMPA. Because Native harvest is believed to be responsible for the observed level of decline, NMFS believes this action is necessary to recover this stock to its OSP level. This proposed rule would provide a long-term mechanism to control the harvest.

NMFS is proposing to regulate the harvest of CI beluga whales by Alaska Natives by requiring: (1) that subsistence hunting can only occur under an agreement between NMFS and an Alaska Native organization pursuant to section 119 of the MMPA; (2) that the harvest shall be limited to no more than two strikes annually until the stock is no longer considered depleted under the MMPA; (3) that the sale of CI beluga

whale products shall be prohibited; (4) that all hunting shall occur after July 15, to minimize the harvest of pregnant females; and (5) that the taking of newborn calves, or adult whales with maternally dependent calves shall be prohibited (calves may remain dependent for several years after birth). The following discussion describes the regulatory measures contained in the proposed rule and the justification for their implementation.

(1) Subsistence hunting of CI beluga whales can occur only under an agreement between NMFS and an Alaska Native organization pursuant to section 119 of the MMPA: This provision is based upon Pub. L. 106-31, which provides that ≥the taking of a Cook Inlet beluga whale under (MMPA section 101(b)) shall be a violation of (the MMPA) unless such taking occurs pursuant to a cooperative agreement between (NMFS) and affected (ANOs)≥. It eliminates the primary threat to CI beluga whales because it prohibits hunting CI beluga whales except under an agreement between NMFS and an ANO.

(2) The harvest shall be limited to no more than 2 strikes annually: The best estimate of abundance for this stock is currently 357 animals (from 1999 survey). NMFS developed a logistic growth population model to project the recovery of the population (expressed in terms of years to recovery) under various levels of annual harvest and compared this to a no-harvest scenario. Annual changes in the population were then modeled using the following population parameters:

Maximum net productivity rate = 4 percent per year,

carrying capacity (K) = 1,300 individuals, and

starting population size = 357 whales (based on NMFS 1999 survey results).

Using this model, the size of the population and recovery time can be estimated for any year, simulating the impacts of differing levels of harvest on recovery times. The results of these analyses are described in detail in the DEIS. Without a harvest, this population should recover to a level where it would no longer be depleted under the MMPA in 22 years (i.e., to the lower level of OSP). In this case, the lower level of OSP would be equal to 60 percent of K (1,300) or 780 whales.

With a harvest of 1 whale per year the population should reach 780 whales in 23 years (a delay in recovery of 1 year). A harvest of 2 whales per year should require approximately 25 years for the population to recover to OSP. Under either harvest scenario, the population is predicted to double in size over the next 2 decades and reach OSP in 23-25 years (See DEIS for further information).

NMFS' management objectives for CI beluga whales are to recover this stock while still providing an opportunity for a traditional harvest that does not significantly increase the amount of time to recovery. A harvest level of either 1 or 2 whales per year would meet both of those objectives. NMFS will review the harvest and its effect on the stock on a periodic basis, and, if appropriate, may adjust the number of allowable annual strikes through notice and comment rulemaking.

(3) *Prohibition on the sale of Cook Inlet beluga whale products*: The sale of edible portions of subsistence-harvested marine mammals is allowed under certain conditions by the MMPA. Some muktuk (the skin and a thin layer of blubber) from subsistence harvests has appeared in Native food stores in the Anchorage area in recent years. At least some of this muktuk was identified by DNA analyses as having come from CI beluga whales. Some hunters have sold beluga whale meat and muktuk by word-of-mouth within the local Native community. One Native hunter said he supported his family by hunting beluga whales and selling the meat and muktuk to Native families (Anchorage Daily News, 1994). While the amount of CI beluga whale products sold commercially in Anchorage and elsewhere has not been determined, one local Anchorage retailer estimated selling approximately 3,000 lb (1,360.8 kg) of beluga muktuk annually. A single adult beluga may provide 200 lb (90.72 kg) of muktuk. By this measure, the retailer may have sold the muktuk from 15 beluga whales per year.

Some of this product might have come from beluga whales from other stocks. However, NMFS analyzed nine samples of beluga whale muktuk sold in Anchorage from June through November, 1998. The genetic analysis of these samples determined that they came from 5 individual beluga whales, all of which came from the CI population.

NMFS believes that allowing the sale of CI beluga whale products or meat may provide an incentive that is unacceptable given the current depleted status of the population. The concentration of more than 20,000 Alaska Natives in the Anchorage area apparently creates a demand for beluga products that exceeds the level of harvest that the small, isolated stock of CI beluga whales can sustain. Therefore, as part of the regulations on the harvest, NMFS would prohibit the sale of edible portions of CI beluga whales. NMFS will also prohibit the sale of CI beluga whale products under this rule. NMFS intends to provide for a traditional harvest while eliminating any commercial incentive;

(4) *All hunting shall occur after July 15 of each year*: Calving by beluga whales in CI is generally complete by July 1 of each year; therefore, a harvest season beginning July 15 would minimize the probability of killing a pregnant female. This is consistent with the intent to promote recovery of this stock of whales yet allowing a harvest to occur.

(5) *The taking of calves or adult whales with calves is prohibited*: This prohibition is necessary to ensure that cow-calf pairs are not disturbed. For the purposes of this proposed rule a calf is any beluga whale that is maternally dependent (maternally dependent animals may be a year or more of age). The season limitation and prohibition on taking calves and adults with calves should protect reproductively active adult females.

Other harvest specifics, including specific locations or techniques for taking whales, can be established through a co-management agreement rather than through regulation. This restricts the scope of the regulations to the population effects of the harvest.

Required Procedure for Proposed Regulations

Section 101(b) and section 103(d) of the MMPA require that regulations prescribed to limit the subsistence harvest of Alaska Natives be made on the record after opportunity for an agency hearing.

Notice of Hearing: Newly re-established regulations at 50 CFR part 228 (65 FR 39560, June 27, 2000) contain detailed requirements for the procedures for conducting an agency hearing on the proposed regulations to limit the harvest. People interested in participating in the hearing are advised to review these procedural regulations. The procedures require specific information to be included in the notice of the hearing, and that information follows.

(1) The nature of the hearing: The purpose of the hearing is to allow parties affected by the agency's proposed regulations to present additional testimony and evidence for inclusion in the administrative record. At the conclusion of the hearing and after consideration of the whole record, the Administrative Law Judge shall make a recommendation to the Secretary regarding adoption of the regulations.

(2) The place and date of the hearing: (see **ADDRESSES** and **DATES**).

(3) The legal authority for the hearing: The hearing is held under the authority of Section 103 of the MMPA (16 U.S.C. 1373) and implementing regulations (50 CFR part 228).

(4) The proposed regulations and statements required by section 103(d) of the Act (16 U.S.C. 1373(d)): See the proposed regulatory text at the end of this document.

(a) Estimated existing levels of the species and stock: The worldwide abundance of beluga whales is unknown but, according to International Whaling Commission estimates, exceeds 100,000 whales. Based on the 1999 surveys, the abundance estimate for the CI beluga whale stock, which is discrete and genetically isolated from other stocks of beluga whales in waters under U.S. jurisdiction, is 357 animals.

(b) Expected impact of the proposed regulations on the OSP of the stock: The proposed regulations are not expected to alter the existing estimates of the OSP levels of the stocks. The proposed regulations are expected to allow the stock to recover to OSP levels in about 25 years.

(c) Description of the evidence before the Secretary:

Related to stock structure: results of a multi-year study on the molecular genetics of beluga whales.

Related to carrying capacity (K): ADFG surveys producing direct counts of beluga whales in CI in the 1960s and 1970s, observations of Alaska Native hunters.

Related to current abundance (1994-1999): results of dedicated aerial surveys conducted by NMFS scientists.

Related to mortality estimates: reports from NMFS contract with CIMMC and NMFS harvest estimates.

Related to productivity rates: life history traits comparable to other small cetaceans and use of the general default value for cetacean maximum net productivity levels.

(d) Studies by or for the Secretary or recommendations by or for the Marine Mammal Commission (MMC): Relevant studies include those on stock structure (O'Corry-Crowe, *et al.*1997), abundance estimates (Hobbs et al. in press), Alaska Native harvest (NMFS and CIMMC contract report). Relevant recommendations include those by the Alaska Scientific Review Group (SRG)—list of recommendations related to the harvest regulations; and those by the MMC—see item 17 below. Note that the Alaska SRG was established by NMFS pursuant to the 1994 amendments to the MMPA to provide advice on marine mammal research and conservation to the Secretary.

(5) Issues of fact which may be involved in the hearing: Public comments related to the status review and subsequent actions related to CI beluga whales indicate that there may be several disputed facts regarding the biology and conservation of the Cook Inlet Beluga whale populations. Among the potential factual issues are the following:

(A) What is the carrying capacity of the Cook Inlet Beluga whale stock?;

(B) How many Cook Inlet Beluga whales currently exist?; and

(C) Should the subsistence harvest of Cook Inlet Beluga whales be restricted to no more than two annually?

(6) Draft Environmental Impact Statement (DEIS): The DEIS is available and may be viewed upon request (see **ADDRESSES**).

(7) Written advice received from the MMC: The following summarizes a record of three letters forwarded to NMFS by the MMC with recommendations specific to the CI beluga whale stock. These letters contained additional advice on CI beluga whales (e.g., recommendations to list under the ESA). However, these recommendations did not pertain to the harvest regulations nor directly to the information needed to implement these regulations. Therefore, the additional advice is not included in this summary.

Letter dated January 22, 1999

1. A brief summary of the information that NMFS has reported in various outlets (SRG meetings, reports, Stock Assessment Reports).

2. MMC stated that ''Clearly, a main part of the problem with the Cook Inlet beluga population is the fact that the number of animals being killed by Alaska Natives greatly exceeds the number that can be supported by the population on a sustainable basis.''

3. The sale of muktuk in Anchorage compounds the problem; therefore, the sale of CI beluga products should be prohibited.

4. MMC stated that the preferred approach for addressing overharvest should be through a co-management agreement.

5. NMFS should act quickly and decisively to protect the stock through rulemaking under the ESA and MMPA to limit the harvest. The process could be completed in as little as 6 weeks; therefore, in time to address the 1999 harvest.

6. If a regulatory approach to limit the harvest is not feasible in a timely manner, NMFS should work with Congress to seek a legislative solution.

7. NMFS should implement a marking, tagging and reporting program for CI beluga.

Letter dated July 23, 1999

1. Based upon the portions of the preliminary analyses provided to the MMC, the MMC advised that the limited information that NMFS had provided would not adequately support a depletion finding.

2. Despite the lack of detailed analyses provided by NMFS, the MMC advised that the population is likely below its OSP and, therefore, should be designated as depleted.

3. The MMC advised to incorporate a discussion of historical abundance or carrying capacity, an estimate of the percentage of historical populations size that would correspond to the maximum net productivity level, and to compare the current population size to the best estimates of historical abundance and MNPL.

Letter dated December 21, 1999

1. The MMC acknowledged the proposed depletion rule and advised to publish a final rule as quickly as possible after the comment period is closed.

2. The MMC recognized that the overharvest by Alaska Natives for subsistence purposes was the primary factor contributing to the decline, acknowledged the special legislation that restricted harvest until October 1, 2000, and recommended that NMFS make it a high priority to implement regulations to govern the harvest by the expiration of the legislation.

3. MMC advised that the co-management process is the preferred approach to establishing harvest limits; however, NMFS should pursue regulations and additional legislation to ensure no gap in protection of the stock.

(8) Places where records and submitted direct testimony will be kept for public inspection: See **ADDRESSES.**

(9) Final date for filing with the Assistant Administrator a notice of intent to participate in the hearing: See **DATES.**

(10) Final date for submission of direct testimony on the proposed regulations and the number of copies required: Parties must submit the original and two copies of all filings. All documents and exhibits must be clearly marked with the docket number of the proceedings (see below). See **ADDRESSES** and **DATES** for deadlines and addresses for filings.

(11) Docket number assigned to the case: 000922272-0272-01.

(12) Place and date of the pre-hearing conference: (see **ADDRESSES** and **DATES**).

Prior to the conference, the ALJ will determine whether parties may participate by telephone as well as the location of the conference if personal appearances are necessary.

Section 103(e) also requires that NMFS conduct a periodic review of the regulations promulgated pursuant to this section, and modifications may be made in such a manner as the Secretary deems consistent with and necessary to carry out purposes of the Act. This review will compare the results of the survey data with the management of the harvest to determine that the CI beluga whale population is increasing as projected, and to determine whether changes in the harvest or level of harvest could occur without compromising the recovery of the population. NMFS has also scheduled a hearing on the record, consistent with the requirements of this section of the MMPA (see **DATES**).

Discussion

Throughout this process, NMFS has provided an opportunity for comment during the status review of CI beluga whales, following the proposed depleted determination, and at the initiation of the NEPA process. NMFS has also convened workshops and public meetings on this subject. It remains the intent of NMFS to insure that the depleted determination, and any proposed regulations subsequent to this determination, be as accurate and as effective as possible. Therefore, comments or suggestions from the public, Native organizations, other governmental agencies, the scientific community, industry, or other interested parties concerning these issues have always been solicited and taken into account prior to any final action. Throughout this process there has been considerable comment provided on the subsistence harvest of beluga whales in Cook Inlet and its impact on the stock. Some of the most common comments received by NMFS on this subject are reviewed in this section.

The most immediate concerns by those who petitioned NMFS to list the CI beluga whale population under the ESA were (1) the level of mortality as a result of subsistence harvest, and (2) the inability of NMFS, at the time of the petition, to control this harvest. The petitioners further stated that the MMPA was inadequate to protect CI beluga whales. They stated that, under the MMPA, NMFS can pursue a co-management agreement with the tribes in the Cook Inlet region. However, the petitioners noted that such an agreement provided no additional legal authority to NMFS to prosecute violations of the MMPA. Therefore, there was no guarantee that a harvest would not occur outside of the agreement by Native hunters who were not part of the agreement. Even with a co-management agreement in place, neither NMFS, nor the co-management body, can enforce its recommendations if hunters choose not to comply. As such, the petitioners stated that a co-management agreement was unlikely to reduce the Native hunt to sustainable levels.

NMFS agreed, generally, that the management of the CI beluga whale stock could be achieved through voluntary and cooperative efforts within a traditional Native community, or through a co-management agreement. However, Anchorage provides an exception to what is generally considered as a traditional Native community. Although tribal authority may apply to Alaska Natives who live in local communities, there is a lack of area-wide tribal authorities or traditional Native laws that would apply to the harvest of CI beluga whales by Alaska Natives of non-local origin and now reside in Anchorage. Because of this, and prior to Pub. L. 106-31, an Alaska Native could have harvested beluga whales from Cook Inlet without the approval of local tribal authorities or governing bodies. For this reason, and in this particular situation, NMFS agreed with the petitioners in stating that a co-management agreement would not necessarily provide the level of authority that would ensure that over harvest would not occur outside an agreement.

NMFS received several recommendations to expeditiously enter into a co-management agreement with an Alaska Native Organization (ANO) and most of these suggested that NMFS should coordinate this agreement with CIMMC. A few commenters thought the most effective way to achieve conservation and subsistence goals for CI beluga whales is through a single, comprehensive co-management agreement and this should be an agency priority. A few commenters stated the agreement should strictly limit hunting to personal and family subsistence and ban the sale of beluga whale products.

NMFS agrees that a co-management agreement with an ANO is both desirable and necessary, and has signed into an agreement with CIMMC for the harvest of one CI beluga whale for the year 2000. Further, NMFS has authority to co-manage subsistence harvest under section 119 of the MMPA. However, any restrictions on the level of subsistence harvest through a co-management agreement would be enforced by tribal authority, not by Federal regulation, unless specific regulations are established under section 101(b) and 103 of the MMPA. As stated earlier, NMFS believes that a co-management agreement would not necessarily provide the level of authority that would ensure that over- harvest would not occur outside of an agreement. Therefore, NMFS believes that the recovery of this stock requires not only the authority of a co-management agreement, but also a Federal authority to protect and conserve CI beluga whales. For that reason, NMFS is proposing these regulations on the subsistence harvest.

One commenter on the proposed depleted determination indicated that if NMFS designates CI beluga whales as depleted, NMFS will regulate the harvest with little regard for the opinions of Alaska Native hunters. NMFS does not believe it is possible to effectively manage the CI beluga whale stock without input from local Native groups in Cook Inlet. Also, NMFS does not want to unilaterally manage CI beluga whales without input from local Natives. NMFS recognizes the importance of beluga whales to the Native Cook Inlet communities. NMFS believes it should work with them to develop a co-management agreement that protects and conserves CI beluga whales while preserving traditional beluga subsistence hunting activities. Co-management will involve both Federal and Tribal authorities.

With these proposed regulations, Federal authority is established to enforce harvest regulation at levels that are sustainable while assuring that the stock can recover. This proposed rule establishes harvest levels until such time the stock reaches the lower level of OSP, i.e., until it is no longer depleted. These regulations will be reviewed and modified as appropriate but remain in effect unless otherwise rescinded or modified through notice and comment rulemaking.

Classification

NEPA

NMFS has prepared an Draft Environmental Impact Statement (DEIS) under the requirements of NEPA. Because the CI beluga whale stock is depleted, NMFS believes that any long term federally-approved harvest plan constitutes a major action subject to the requirements of NEPA. Therefore, these proposed regulations will not be finalized until an Environmental Impact Statement has been finalized and a Record of Decision is made. NMFS has

prepared a DEIS to address actions taken by NMFS to manage and recover this stock. The primary management action proposed is to limit Native subsistence harvest of CI beluga whales. The impact of this action was evaluated in the DEIS through a model that examines the length of time it would take for the stock to recover under different harvest alternatives. The preferred harvest plan provides for the cultural needs of Alaska Natives by allowing up to 2 strikes (multiple strikes on one whale equals one strike), while not significantly extending the time required for this stock to recover. The DEIS also presents an assessment of the impacts of other anthropogenic activities, which occur in Cook Inlet, that might impact the CI beluga whales, or their habitat. This assessment includes a discussion of the cumulative impacts and evaluates the need for measures for the protection and conservation of important CI beluga whale habitat.

Paperwork Reduction Act

This proposed rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act of 1980.

ESA

The ESA provides for the conservation of endangered and threatened species of fish, wildlife, and plants. The program is administered jointly by NMFS (for most marine species) and the U.S. Fish and Wildlife Service (for terrestrial and freshwater species). The ESA provides for listing species as either threatened or endangered, based on the biological health of a species. Threatened species are those likely to become endangered in the foreseeable future (16 U.S.C. 1532(20)). Endangered species are those in danger of becoming extinct throughout all or a significant portion of their range (16 U.S.C. 1532(20)). The Secretary, acting through NMFS, is authorized to list selected marine mammals, including beluga whales, and fish species.

On March 3, 1999, NMFS received a petition from seven organizations and one individual to list the CI stock of beluga whale as ''endangered'' under the ESA. This petition requested emergency listing under section 4(b)(7) of the ESA, designation of critical habitat, and immediate action to implement regulations to regulate the subsistence harvest of these whales. NMFS determined that these petitions presented substantial information which indicated the petitioned actions may be warranted in April 1999 (64 FR 17347). Upon further review, and taking into account legislative and management measures put in place to regulate the subsistence harvest following receipt of the petition, and measures proposed in this regulation, NMFS, on June 22, 2000, determined that an ESA listing is not warranted at this time. Based on that determination, this proposed rule does not impact any ESA listed species or its habitat.

Executive Order 12866—Regulatory Planning and Review

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed action would not have a significant economic impact on a substantial number of small entities as follows:

The proposed rule would limit the subsistence harvest of Cook Inlet, Alaska, beluga whales and require that subsistence hunting can only occur under an agreement between the National Marine Fisheries Service (NMFS) and Alaska Native organizations pursuant to section 119 of the MMPA.

The MMPA imposes a general moratorium on the taking of marine mammals. However, section 101(b) of the MMPA provides an exemption to the taking by allowing Alaskan Natives to harvest marine mammals for subsistence use or for purposes of traditional Native handicraft. Under the MMPA, the Federal Government may regulate Native subsistence harvest after the stock in question is designated as depleted and after formal rulemaking.

NMFS designated the CI beluga whale stock as depleted on May 31, 2000 (65 FR 34590), due to a 50 percent decline in the abundance of the stock between 1994 and 1998. Native harvest is believed to be responsible for the observed decline, and NMFS believes that the control of the harvest is necessary to provide continued protection for this stock.

Therefore, a regulatory flexibility analysis was not prepared.

Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Incomed Populations

Section 4-4, Subsistence Consumption of Fish and Wildlife, of Executive Order 12898, requires Federal agencies to ensure protection of populations with differential patterns of subsistence consumption of fish and wildlife and to communicate to the public the human health risks of those consumption patterns. NMFS has monitored and evaluated contaminant loads in all populations of beluga whales in Alaska for nearly a decade, and has reported this information to Alaska Native communities as these analyses have become available. A summary is available in the DEIS.

Consultation with State and Local Government Agencies

In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual State and Federal interest, NMFS has conferred with state and local government agencies in the course of assessing the status of CI beluga whales. State and local governments have expressed support for the conservation of this stock of beluga whales. Dialogue with state and local agencies included an exchange and discussion of scientific information regarding beluga whales, factors that may be affecting them, and their status under the ESA and MMPA.

Executive Order 13084-Consultation and Coordination with Indian Tribal Governments

This proposed rule is consistent with policies and guidance established in Executive Order 13084 of May 14, 1998 (63 FR 27655). Executive Order 13084 requires that if NMFS issues a regulation that significantly or uniquely affects the communities of Indian tribal governments and imposes substantial direct compliance costs on those communities, NMFS must consult with those governments, or the Federal government must provide the funds necessary to pay the direct compliance costs incurred by the tribal governments. NMFS has taken several steps to consult and inform affected tribal governments and solicit their input during development of these proposed regulations including the development of a co-management agreement with the Cook Inlet Marine Mammal Council which provides for the harvest of 1 whale during 2000. This proposed rule does not impose substantial direct compliance costs on the communities of Indian tribal governments.

List of Subjects in 50 CFR Part 216

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

Dated: September 26, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service .

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

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

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

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

2. In § 216.23, paragraph (f) is added to read as follows:

§ 216.23 Native exceptions.

* * * * *

(f) *Cook Inlet beluga whales.*

(1) *Cooperative Agreement.* Notwithstanding the provisions of 16 U.S.C. 1371(b) or paragraph (a) of this section, any taking of a Cook Inlet beluga whale by an Alaska Native must be authorized under a cooperative agreement between the National Marine Fisheries Service and an Alaska Native organization(s). The Cook Inlet beluga whale stock includes all beluga whales occurring in waters of the Gulf of Alaska north of 58 degrees North latitude including, but not limited to, Cook Inlet, Kamishak Bay, Chinitna Bay, Tuxedni Bay, Prince William Sound, Yakutat Bay, Shelikof Strait, and off Kodiak Island and freshwater tributaries to these waters.

(2) *Limitations on the Number of Cook Inlet Beluga Whales Taken for Subsistence.* Notwithstanding the provisions of 16 U.S.C. 1371(b) or paragraph (a) of this section, the number of whales that may be taken (killed or struck and lost) each year from the Cook Inlet, Alaska, stock of beluga whales for subsistence purposes shall be limited to no more than two (2) strikes annually until the stock is no longer designated as depleted.

(3) *Prohibition on the Sale of Cook Inlet Beluga Whale.* Notwithstanding the provisions of 16 U.S.C. 1371(b) or paragraph (b) of this section, the sale of products or foodstuffs from Cook Inlet beluga whales is prohibited.

(4) *Season.* Notwithstanding the provisions of 16 U.S.C. 1371(b) or paragraph (a) of this section, all hunting shall only occur after July 15 of each year.

(5) *Beluga calves or adult belugas with calves.* Notwithstanding the provisions of 16 U.S.C. 1371(b) or paragraph (a) of this section, the taking of beluga whale newborn calves, or adult whales with older, maternally dependent calves is prohibited.

[FR Doc. 00–25481 Filed 10–3–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 981022265-8265-01; I.D. 101698L]

RIN 0648-AL93

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Fishing in the EEZ Seaward of Navassa Island

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to prohibit fishing and anchoring of fishing vessels in the exclusive economic zone (EEZ) within 15 nautical miles (nm) seaward from the baseline of Navassa Island.

DATES: Comments must be received no later than 4:30 p.m., eastern daylight savings time, on November 3, 2000.

ADDRESSES: Written comments regarding this proposed rule must be sent to, and copies of a draft environmental assessment supporting this action, may be obtained from Michael Barnette, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727-570-5583. Comments will not be accepted if submitted via e-mail or Internet. Comments on any ambiguity or unnecessary complexity arising from the language used in this rule should be addressed to Rod Dalton, Southeast Regional Office, NMFS, at the above address.

FOR FURTHER INFORMATION CONTACT: Michael Barnette, telephone: 727-570-5305, fax: 727-570-5583, e-mail: Michael.Barnette@noaa.gov.

SUPPLEMENTARY INFORMATION: The U.S. Territory of Navassa Island is located in the Caribbean Sea approximately 60 nm northeast of Jamaica and 34 nm west of Haiti. The uninhabited island covers an area of approximately 2 square miles (518 hectares).

NMFS has received several inquiries regarding whether fishing activities are permitted in the EEZ seaward of Navassa Island. In addition, a recent scientific expedition to Navassa Island publicized the unique and unprotected marine resources of the area. Important marine resources of this area include reef fish and invertebrates, especially coral, live rock, sponges, queen conch, and spiny lobsters. NMFS believes these resources are in a relatively pristine condition due to the isolation of this area and its distance from the commercial fishing grounds of the major fishing nations.

Fishing in the EEZ seaward of Navassa Island is subject to regulation under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and the Atlantic Tuna Conventions Act (16 U.S.C. 971 *et seq.*). The Caribbean Fishery Management Council (Council) has authority only over the fisheries in the EEZ of the Caribbean Sea and Atlantic Ocean seaward of the U.S. Virgin Islands and the Commonwealth of Puerto Rico. An amendment to the Magnuson-Stevens Act would be necessary to extend the Council's authority to the EEZ seaward of Navassa Island. However, the Secretary of Commerce has the authority under section 305(d) of the Magnuson-Stevens Act to promulgate such regulations as may be necessary to carry out the provisions and purposes of that act, including conserving and managing the fishery resources in the EEZ not within the authority of a regional fishery management council such as in the EEZ seaward of Navassa Island.

As a precautionary approach to fisheries management, NMFS is proposing this rule to protect the fishery resources in the EEZ seaward of Navassa Island from unregulated harvests until the Magnuson-Stevens Act can be amended to give the Council authority over the fishery resources of the EEZ seaward of Navassa Island, and until conservation and management measures, as recommended by the Council and approved and implemented by NMFS, are in effect. This rule would prohibit all fishing, including fishing for Atlantic highly migratory species, and anchoring of fishing vessels in the EEZ within 15 nm seaward from the baseline of Navassa Island. These measures would apply to vessels of the United States and to all foreign vessels except vessels of the Republic of Haiti.

This proposed rule is intended to protect coral reef resources from directed fishing or bycatch mortality and to prevent possible damage from unregulated fishing gear or from harmful fishing practices, such as the use of explosives or poisons. Establishment of a no-fishing zone would simplify and facilitate enforcement in this remote area. The anchoring prohibition would protect coral habitats from physical damage and facilitate enforcement of the fishing ban.

NMFS requests information regarding the fishery resources and existing or expected fishing activities in the EEZ within 15 nm of Navassa Island. Because of the scarcity of data regarding fishing activities in the area, NMFS is requesting public comment, especially from the longline fishing community, on the number, if any, of longline vessels that routinely fish within 15 nm of Navassa Island. If any such vessels have historically fished in the area, then additional information on the importance of the area in terms of overall catches is requested.

The U.S. Fish and Wildlife Service (Service) recently established the Navassa Island National Wildlife Refuge. For information regarding the refuge, see the Service's notice in the **Federal Register** (64 FR 73062; December 29, 1999).

Classification

This proposed rule is necessary in order to protect the coral reef and other fishery resources surrounding Navassa Island from harmful fishing practices until the Magnuson-Stevens Act can be amended to establish the Council's authority over the fishery resources of the EEZ seaward of Navassa Island, and conservation and management measures can be implemented through the Council process. NMFS is concerned that fishing activities in the EEZ seaward of Navassa Island will increase as a result of recent publicity and inquiries about the area.

NMFS prepared a draft environmental assessment (EA) for this proposed rule and the Assistant Administrator for Fisheries has preliminarily concluded that there will be no significant impact on the human environment as a result of this proposed rule. A copy of the draft EA is available from NMFS (see **ADDRESSES**).

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

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 proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The U.S. Territory of Navassa Island is located in the Caribbean Sea approximately 60 nm northeast of Jamaica and 34 nm west of Haiti. The uninhabited island covers an area of approximately 2 square miles (518 hectares). NMFS believes the resources in the nearshore waters surrounding Navassa Island are in a relatively pristine condition due to the isolation of this area and its distance from the commercial fishing grounds of major fishing nations. As a precautionary approach to fisheries management, NMFS is proposing this rule to protect the fishery resources around Navassa Island from unregulated harvests and habitat damage. Accordingly, this rule would prohibit all fishing and anchoring of fishing vessels in the EEZ within 15 nm seaward from the baseline of Navassa Island. This rule and its measures would apply to vessels of the United States and to all foreign vessels except vessels of the Republic of Haiti.

Because of its remote location, there is a scarcity of data about current and historical fishing around Navassa Island. Anecdotal evidence based on infrequent visits to the island by scientists from non-governmental organizations (e.g., Center for Marine Conservation) and verbal information from Navassa Island National Wildlife Refuge staff indicates that the current level of fishing near the island is negligible, if any. Information from NMFS Highly Migratory Species (HMS) Division indicates that some longline fishermen may fish in the near vicinity of Navassa Island. However, NMFS' data on HMS fishing locations is not precise enough to establish the presence or absence of fishing within 15 nm of Navassa Island.

NMFS believes that the main effect of this rule would be to preserve the status quo. Given what little data are available, and the preliminary conclusion that fishing activity in the marine waters near the island is negligible, if any, NMFS has concluded that the proposed rule will not have a significant negative economic impact on a substantial number of small entities.

Accordingly, an initial regulatory flexibility analysis was not prepared for this proposed rule.

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 proposed rule. Such comments should be directed to Rod Dalton at 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 27, 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 proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.1, paragraph (c) is added to read as follows:

§ 622.1 Purpose and scope.

* * * * *

(c) This part also governs fishing in the EEZ seaward of Navassa Island, which is not under the authority of a Regional Fishery Management Council.

3. In § 622.3, paragraph (f) is added to read as follows:

§ 622.3 Relation to other laws and regulations.

* * * * *

(f) In Navassa Island National Wildlife Refuge, the regulations of the U.S. Fish and Wildlife Service also apply.

4. In § 622.7, paragraph (l) is revised to read as follows:

§ 622.7 Prohibitions.

* * * * *

(l) Fish in violation of the prohibitions, restrictions, and requirements applicable to seasonal and/or area closures, including but not limited to: Prohibition of all fishing, gear restrictions, restrictions on take or retention of fish, fish release requirements, and restrictions on use of an anchor or grapple, as specified in §§ 622.33, 622.34, 622.35, 622.49, or as may be specified under § 622.46(b) or (c).

* * * * *

5. Section 622.49 is added to subpart C to read as follows:

§ 622.49 Activities prohibited in the EEZ surrounding Navassa Island.

In the EEZ within 15 nm seaward from the baseline of Navassa Island, fishing for any species of fish is prohibited, and a fishing vessel may not anchor, use an anchor and chain, or use a grapple and chain. These prohibitions do not apply to vessels or citizens of the Republic of Haiti.

[FR Doc. 00–25479 Filed 10–3–00; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 65, No. 193

Wednesday, October 4, 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

Forest Service

Klamath Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Klamath Provincial Advisory Committee will meet on October 11, 2000, at the Northern California Service Center, Training Room 1, 6101 Airport Road, Redding, California. The meeting will start at 9 A.M. and adjourn at 5 P.M. Agenda items for the meeting include: (1) Discussion on topics of general interest to the PAC (Implementation Monitoring Field Trips); (2) the President's Fire and Fuels Report; (3) Socio-Economic Issues: and (4) Public Comment Periods. All Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Connie Hendryx, USDA, Klamath National Forest, 11263 N. Hwy 3, Fort Jones, California 96032; telephone 530–468–1281 (voice), TDD 530–468–2783.

Dated: September 27, 2000.

Constance J. Hendryx,

PAC Support Staff.

[FR Doc. 00–25385 Filed 10–3–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Oglethorpe Power Corporation; Notice of Intent

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Intent to Hold a Public Meeting and Prepare an Environmental Assessment.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS), pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 CFR Parts 1500–1508), and RUS Environmental Policies and Procedures (7 CFR Part 1794) proposes to prepare an Environmental Assessment related to possible financing assistance to Oglethorpe Power Corporation to construct a 520 megawatt, combined cycle combustion turbine project in Heard County, Georgia.

DATES: RUS will conduct a public scoping meeting in an open house format on Thursday, October 19, 2000, from 4:30 p.m. until 7:30 p.m.

ADDRESSES: The scoping meeting will be held at the Heard County Parks and Recreation Department, Riverside Park Gymnasium, 101 Glover Road, Franklin, Georgia. All interested parties are invited to attend the meeting.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Engineering and Environmental Staff, Rural Utilities Service, at (202) 720–0468. Bob's E-mail address is bquigel@rus.usda.gov. You can also contact Greg Jones of Oglethorpe Power Corporation at 1–800–241–5374, extension 7890. Greg's email address is greg.jones@opc.com.

SUPPLEMENTARY INFORMATION: Oglethorpe Power Corporation proposes to construct the natural gas fired electric generation plant at the Hal B. Wansley Plant site in northeast Heard County approximately six miles southeast of Roopville, Georgia. The existing Wansley Plant is a 1,730 megawatt, coal fired, electric generation facility owned by Oglethorpe Power Corporation, Georgia Power Company, the Municipal Electricity Authority of Georgia, and the City of Dalton. The proposed plant is one of four blocks of additional electric generation facilities planned for construction at the site. Each block of additional generation is proposed to consist of two combustion turbines and one heat recovery steam generator. The total build-out of the four blocks would total approximately 2,280 megawatts. No new electric transmission lines will need to be constructed to connect this plant to the existing electric transmission grid. No new natural gas pipeline will be constructed to exclusively serve this plant. Georgia Power Company is proposing to construct a natural gas pipeline that is planned to provide an adequate gas supply to the total build-out at the Wansley Plant site.

The proposed project will be composed of two, nominal 167 megawatt Siemens V84.3A2 connected to a heat recovery steam generator which will power a Siemens steam turbine. Which This will increase the total plant output by 187 megawatts for a total of 520 megawatts. It is the goal of Oglethorpe Power Corporation to have the plant in operation by the spring of 2003.

Alternatives considered by RUS and Oglethorpe Power Corporation to constructing the proposed generation facility proposed include: (a) No action, (b) purchased power, (c) load management, (d) renewable energy, (e) hydroelectric generation, (f) pumped storage hydroelectric generation, and (g) distributed generation.

An alternative evaluation and site selection study for the project was prepared by Oglethorpe Power Corporation. The alternative evaluation and site selection study are available for public review at RUS in Room 2242, 1400 Independence Avenue, SW, Washington, DC, and at the headquarters of Oglethorpe Power Corporation located at 2100 East Exchange Place, Tucker, Georgia. This document will also be available at the West Georgia Regional Library at 710 Rome Street, Carrollton, Georgia, phone (770) 836–6711,; the Heard County Public Library at 564 Main Street, Franklin, Georgia, phone (706) 675–6501; and the Newnan-Coweta Public Library at 25 Hospital Road, Newnan, Georgia, phone (770) 253–3625.

Government agencies, private organizations, and the public are invited to participate in the planning and analysis of the proposed project. Representatives of RUS and Oglethorpe Power Corporation will be available at the scoping meeting to discuss RUS' environmental review process, describe the project and alternatives under consideration, discuss the scope of environmental issues to be considered, answer questions, and accept oral and written comments. Written comments will be accepted for at least 30 days after the public scoping meeting.

From information provided in the alternative evaluation and site selection

study, input that may be provided by government agencies, private organizations, and the public, Oglethorpe Power Corporation will prepare an environmental analysis to be submitted to RUS for review. RUS will use the environmental analysis to determine the significance of the impacts of the project and may adopt it as its environmental assessment of the project. RUS' environmental assessment of the project would be available for review and comment for 30 days.

Should RUS determine, based on the environmental assessment of the project, that the impacts of the construction and operation of the plant would not have a significant environmental impact, it will prepare a finding of no significant impact. Public notification of a finding of no significant impact would be published in the **Federal Register** and in newspapers with a circulation in the project area.

Any final action by RUS related to the proposed project will be subject to, and contingent upon, compliance with environmental review requirements as prescribed by CEQ and RUS environmental policies and procedures.

Dated: September 28, 2000.

Glendon Deal,

Acting Director, Engineering and Environmental Staff.

[FR Doc. 00–25452 Filed 10–3–00; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–811]

Grain-Oriented Electrical Steel From Italy: Notice of Extension of Time Limit for Final Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for the final results of antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the antidumping duty administrative review of grain-oriented electrical steel (GOES) from Italy. The period of review is August 1, 1998 through July 31, 1999.

EFFECTIVE DATE: October 4, 2000.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips or Nancy Decker, Office of AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0193 or (202) 482–0196, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (the Act), as amended, are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (1999).

Background

On August 31, 1999, AST requested that the Department conduct an administrative review of its exports of grain-oriented electrical steel. The Department initiated this administrative review on October 1, 1999 (64 FR 53318). On September 7, 2000, we published the preliminary results of review in the **Federal Register** (65 FR 54215).

Extension of Time Limit for Final Results

During this review complex issues have been raised regarding the classification of AST's sales of GOES to the United States. In order to analyze this issue appropriately, the Department sent an additional supplementary questionnaire after the publication of the Preliminary Results. Due to the time constraints placed on the respondent to answer this questionnaire and petitioners to comment on the response, we require an extension. Therefore, because it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act, the Department is extending the time limit for the final results to be 180 days from the date of the publication of the preliminary results. Therefore, our final results are due no later than March 6, 2001. This extension of the time limit is in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: September 27, 2000.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 00–25464 Filed 10–3–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India: Preliminary Results of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of new shipper antidumping duty administrative review: stainless steel bar from India.

SUMMARY: In response to requests from Atlas Stainless Corporation, the Department of Commerce is conducting a new shipper administrative review of the antidumping duty order on stainless steel bar from India. This review covers sales of the subject merchandise to the United States during the period February 1, 1999 through January 31, 2000.

We have preliminarily determined that Atlas Stainless Corporation, has not made sales of subject merchandise below normal value. If these preliminary results are adopted in our final results, we will instruct the Customs Service not to assess antidumping duties.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 4, 2000.

FOR FURTHER INFORMATION CONTACT: Blanche Ziv or Ryan Langan, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–4207 or (202) 482–1279, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, all references to the Department of Commerce's (''the Department's'') regulations are to 19 CFR Part 351 (April 1999).

Background

On February 26, 2000, the Department received a request from Atlas Stainless Corporation (''Atlas'') to conduct a new shipper administrative review of the antidumping duty order on stainless steel bar from India. The Department published in the **Federal Register**, on

April 7, 2000, a notice of initiation of a new shipper administrative review of Atlas covering the period February 1, 1999 through January 31, 2000 (65 FR 18295). The initiation notice incorrectly stated the period of review as being February 1, 1998 through January 31, 1999. The period covered by this review is February 1, 1999 through January 31, 2000. See 351.214(g)(1)(A).

Scope of Review

Imports covered by this review are shipments of stainless steel bar (''SSB''). SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.,* cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The SSB subject to these orders is currently classifiable under subheadings 7222.10.0005, 7222.10.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Treatment of Sales of Tolled Merchandise

Pursuant to 19 CFR 351.401(h) of its regulations, the Department will not consider a toller or subcontractor to be a manufacturer or producer when the toller or subcontractor does not acquire ownership of the finished products and does not control the relevant sales of the subject merchandise and the foreign like product. In determining whether a company that uses a subcontractor in a tolling arrangement is a producer pursuant to 19 CFR 351.401(h), we examine all relevant facts surrounding a tolling agreement. Atlas claims that under the tolling arrangement with its unaffiliated subcontractor, Atlas is the producer of the subject merchandise at issue. In support of this claim, Atlas reports that it: (1) Purchases all of the inputs, (2) pays the subcontractor a processing fee, and (3) maintains ownership at all times of the inputs as well as the final product. Based on this evidence, we preliminarily determine that Atlas is the producer of the tolled merchandise, and hence the appropriate respondent.

United States Price

In calculating the price to the United States, we used export price (''EP''), in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation into the United States and the use of constructed export price was not otherwise indicated.

We calculated EP based on the CIF price to the United States. In accordance with section 772(c)(2) of the Act, we made deductions, as appropriate, for foreign inland freight, international freight, marine insurance, and brokerage and handling.

Normal Value

Atlas reported no home market sales or third country sales during the POR. Therefore, in accordance with section 773(e) of the Act, we calculated a constructed value (''CV'') for Atlas based on the sum of the respondent's cost of materials, labor, overhead, general and administrative expenses (''GNA''), profit, and U.S. packing costs. With respect to G&A, we used the amounts reported by Atlas in their April 28, 2000 response. With respect to profit, we used the profit from the 1999–2000 financial statements submitted by Atlas in their September 1, 2000 response. We divided that amount by its total cost of production, also as reported in their 1999–2000 financial statements.

Preliminary Results of the Review

As a result of our comparison of EP and CV, we preliminarily determine the following weighted-average dumping margin:

Manufacturer/ exporter	Period of review	Margin (per-cent)
Atlas Stainless Corporation ...	2/1/99–1/31/00	0.00

Public Comment

Interested parties may request a hearing within 30 days of the date of publication of this notice. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs (*see* below). Interested parties may submit written arguments in case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the date of filing the case briefs. Parties who submit briefs in these proceedings should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f)(3).

The Department will issue the final results of this administrative review within 120 days from the publication of these preliminary results.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This new shipper review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 27, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–25465 Filed 10–3–00; 8:45 am]

BILLING CODE 3510–DS–U

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

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), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and

be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 00–030. *Applicant:* Central Institute for the Deaf, 4560 Clayton Avenue, St. Louis, MO 63110. *Instrument:* Electron Microscope, Model H–7500. *Manufacturer:* Hitachi, Japan. *Intended Use:* The instrument is intended to be used for studies of the biological ultrastructure of the nervous system during research regarding the development of the olivocochlear innervation based on procedures that represent a refinement in established techniques and methods developed specifically to address issues concerning this application. In addition, the instrument will be used for educational purposes for the training of graduate students, medical students, postdoctoral fellows and medical residents. *Application accepted by Commissioner of Customs:* September 13, 2000.

Docket Number: 00–031. *Applicant:* University of Georgia, The Applied Genetics Technology Resource and Business Facility (AGTEC), 111 Riverbend Road, Athens, GA 30602. *Instrument:* (Two) Plant Growth Chambers, Model GC8–2H. *Manufacturer:* Enconair Ecological Chambers, Canada. *Intended Use:* The instrument is intended to be used for studies of plants that have been recovered from cell culture for the purpose of determining gene function by expressing the genes in genetically engineered plants. *Application accepted by Commissioner of Customs:* September 13, 2000.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 00–25466 Filed 10–3–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Docket No. 000724217–0217–01]

RIN 0640–ZA08

Solicitation of Applications for the Minority Business Development Center (MBDC) Program

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) published a document in the **Federal Register** of August 28, 2000, concerning solicitation of competitive applications from organizations to operate new and enhanced Minority Business Development Centers (MBDC) under its Minority Business Development Center (MBDC) Program. This document extends the closing date of the award to no later than 5 p.m., EDT on October 6, 2000.

DATES: The closing date for receipt of applications has been extended until October 6, 2000.

ADDRESSES: Applicants must submit one signed original plus two (2) copies of the application. Completed application packages must be submitted to: Minority Business Development Center Program Office, Room 5600, Minority Business Development Agency, U.S. Department of Commerce, 14th & Constitution Avenue, NW, Washington, DC 20230.

If the application is hand-delivered by the applicant or its representative, the application must be delivered to Room 1874, which is located at Entrance #10, 15th Street, NW, between Pennsylvania and Constitution Avenues. Applicants are encouraged to submit their proposal electronically via the World Wide Web. However, the following paper forms must be submitted with original signatures in conjunction with any electronic submissions by the closing date and time stated above: (1) SF–424, Application for Federal Assistance; (2) the SF–424B, Assurances-Non-Construction Programs; (3) the SF–LLL (Rev. 7–97) (if applicable), Disclosure of Lobbying Activities; (4) Department of Commerce Form CD–346 (if applicable), Applicant for Funding Assistance; and (5) the CD–511, Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying. MBDA's web site address to submit an application on-line is www.mbda.gov/e-grants. All required forms are located at this web address.

Failure to submit a signed, original SF–424 with the application, or separately in conjunction with submitting a proposal electronically, by the deadline will result in the application being rejected and returned to the applicant. Failure to sign and submit with the application, or separately in conjunction with submitting a proposal electronically, the forms identified above by the deadline will automatically cause an application to lose two (2) points. Failure to submit other documents or information may adversely affect an applicant's overall score.

FOR FURTHER INFORMATION CONTACT: For further information, contact the MBDA Regional Office for the geographic service area in which the project will be located.

SUPPLEMENTARY INFORMATION: In the **Federal Register** issue of August 28, 2000, in FR Doc. 00–21858, on page 52069, in the third column (third paragraph), change the date from September 29, 2000 to October 6, 2000. Applications will be accepted until 5:00 p.m. Eastern Daylight Time.

Dated: September 22, 2000.

Edith Jett McCloud,

Associate Director for Management, Minority Business Development Agency.

Juanita E. Berry,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 00–25467 Filed 10–3–00; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Docket No. 000724218–0217–01]

RIN 0640–ZA09

Solicitation of Applications for the Native American Business Development Center (NABDC) Program

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) published a document in the **Federal Register** of August 28, 2000, concerning solicitation of competitive applications from organizations to operate new and enhanced Native American Business Development Centers (NABDC) under its Native American Business Development Center (NABDC) Program. This document extends the closing date of the award to no later than 5:00 p.m., EDT on October 6, 2000.

DATES: The closing date for receipt of applications has been extended until October 6, 2000.

ADDRESSES: Applicants must submit one signed original plus two (2) copies of the application. Completed application packages must be submitted to: Native American Business Development Center Program Office, Room 5600, Minority Business Development Agency, U.S. Department of Commerce, 14th & Constitution Avenue, NW, Washington, DC 20230.

If the application is hand-delivered by the applicant or its representative, the application must be delivered to Room 1874, which is located at Entrance #10, 15th Street, NW, between Pennsylvania and Constitution Avenues. Applicants are encouraged to submit their proposal electronically via the World Wide Web. However, the following paper forms must be submitted with original signatures in conjunction with any electronic submissions by the closing date and time stated above: (1) SF–424, Application for Federal Assistance; (2) the SF–424B, Assurances-Non-Construction Programs; (3) the SF–LLL (Rev. 7–97) (if applicable), Disclosure of Lobbying Activities; (4) Department of Commerce Form CD–346 (if applicable), Applicant for Funding Assistance; and (5) the CD–511, Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying. MBDA's web site address to submit an application on-line is www.mbda.gov/e-grants. All required forms are located at this web address.

Failure to submit a signed, original SF–424 with the application, or separately in conjunction with submitting a proposal electronically, by the deadline will result in the application being rejected and returned to the applicant. Failure to sign and submit with the application, or separately in conjunction with submitting a proposal electronically, the forms identified above by the deadline will automatically cause an application to lose two (2) points. Failure to submit other documents or information may adversely affect an applicant's overall score.

FOR FURTHER INFORMATION CONTACT: For further information, contact the MBDA Regional Office for the geographic service area in which the project will be located.

SUPPLEMENTARY INFORMATION: In the **Federal Register** issue of August 28, 2000, in FR Doc. 00–21859, on page 52084, in the third column (second paragraph), change the date from September 29, 2000 to October 6, 2000. Applications will be accepted until 5:00 p.m. Eastern Daylight Time.

Dated: September 22, 2000.

Edith Jett McCloud,

Associate Director for Management, Minority Business Development Agency.

Juanita E. Berry,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 00–25468 Filed 10–3–00; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092700A]

Fisheries of the Exclusive Economic Zone Off Alaska; Recordkeeping and Reporting Requirements; Public Workshop

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

ACTION: Notice of workshop.

SUMMARY: NMFS, Alaska Region, and the U.S. Coast Guard (USCG) North Pacific Regional Fisheries Training Center will present a workshop at FISH EXPO concerning 2001 recordkeeping and reporting (R&R) requirements for the Alaska groundfish fisheries.

DATES: The workshop will be held on Friday, November 17, 2000, from 10 a.m. to 12 noon, local time, Seattle, WA.

ADDRESSES: The workshop will be held in Room 310, FISH EXPO at the Washington State Trade and Convention Center, Seattle, WA.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907-586-7008.

SUPPLEMENTARY INFORMATION: The workshop will include discussion of proposed changes to the R&R requirements, codified at 50 CFR part 679, along with instructions for completion and submittal of the required forms and logsheets. Suggestions and feedback on existing procedures are welcome. Other R&R workshops are scheduled as follows; the times of these workshops will be decided at a later date.

1. January 4, 2001, NOAA/NMFS Alaska Fisheries Science Center, Building 9, Room A/B, Seattle, WA;
2. January 16, 2001, USCG Training Center, Kodiak, AK; and
3. January 18 and 19, 2001, Unalaska City Hall, Council Chambers, Unalaska, AK.

Special Accommodations

This workshop is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Patsy Bearden at 907-586-7008 at least 7 working days prior to the meeting date.

Dated: September 28, 2000

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–25480 Filed 10–3–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice has been issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed ''subsequent arrangement'' under the Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the United States and Canada and Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States and the European Atomic Energy Community (EURATOM).

This subsequent arrangement concerns the retransfer of 40,168.3kg of U.S.-origin natural uranium, 27,153.8kg of which is in the form of UF_6, from the Cameco Corporation, Ontario, Canada to Urenco Almelo, Netherlands. The material, which is now located at Cameco Corp., Port Hope, Ontario, will be transferred to Urenco for toll enrichment. Upon completion of the toll enrichment, the material will be transferred to the Northern States Power, Minneapolis, MN for use as fuel. The uranium hexafluoride was originally obtained by the Cameco Corp. from IMC—Agrico Bannockburn, Il pursuant to export license number XSOU8714.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement is not inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Trisha Dedik,

Director, International Policy and Analysis for Arms Control and Nonproliferation Office of Defense Nuclear Nonproliferation.

[FR Doc. 00–25454 Filed 10–3–00; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Office of Science; Advanced Scientific Computing Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces the first meeting of the Advanced Scientific Computing Advisory Committee

(ASCAC). Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, October 31, 2000, 8:30 a.m. to 5:00 p.m.; Wednesday, November 1, 2000, 8:30 a.m. to 4:15 p.m.

ADDRESSES: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209

FOR FURTHER INFORMATION CONTACT: Melea Baker, Office of Advanced Scientific Computing Research; U.S. Department of Energy; 19901 Germantown Road; Germantown, MD 20874–1290; Telephone (301) 903–7486 (E-mail: Melea.Baker@science.doe.gov).

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

The purpose of this meeting is to provide advice and guidance with respect to the advanced scientific computing research program.

Tentative Agenda: Agenda will include discussions of the following:

Tuesday, October 31, 2000

- Introduction
- Briefings on Advisory Committee Operations
- Remarks from the Director, Office of Science
- Remarks from Associate Director, Advanced Scientific Computing Research
- Presentations of Office of Science Programs
- Public Comment

Wednesday, November 1, 2000

- Overview of Mathematical, Information, and Computational Sciences Division
- Presentations of the Mathematical, Information, and Computational Sciences Programs
- Overview of Scientific Discovery Through Advanced Computing
- Advisory Committee Open Discussion of Issues
- Review Calendar for CY2001
- Public Comment

Public Participation

The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Melea Baker via FAX at 301–903–4846 or via E-mail (*Melea.Baker@science*.doe.gov). You must make your request for an oral statement at least 5 business days prior to the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes

The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; 1E–190, Forrestal Building; 1000 Independence Avenue, SW; Washington, DC 20585; between 9:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C. on September 28, 2000.

Rachel M. Samuel,

Deputy Advisory Committee, Management Officer.

[FR Doc. 00–25455 Filed 10–3–00; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Los Alamos

AGENCY: Department of Energy

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, October 25, 2000, 6 p.m.–9 p.m.

ADDRESSES: Johnson Controls, 1027 North Railroad Avenue, Espanola, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ann DuBois, Northern New Mexico Citizens' Advisory Board, 1640 Old Pecos Trail, Suite H, Santa Fe, NM 87505. Phone (505) 989–1662; fax (505) 989–1752 or e-mail: *adubois@doeal.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Opening Activities 6–6:30 p.m.
2. Public Comments 6:30–7 p.m.
3. Reports
4. Committee Reports:
   Waste Management
   Environmental Restoration
   Monitoring and Surveillance
   Community Outreach
   Budget
5. Other Board business will be conducted as necessary

This agenda is subject to change at least one day in advance of the meeting.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ann DuBois at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the beginning of the meeting.

Minutes

Minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1640 Old Pecos Trail, Suite H, Santa Fe, NM. Hours of operation for the Public Reading Room are 9 a.m.–4 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Ann DuBois at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.org*.

Issued at Washington, DC on September 28, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–25456 Filed 10–3–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: submission for OMB review; comment request.

SUMMARY: The EIA has submitted the energy information collections listed at the end of this notice to the Office of Management and Budget (OMB)for review and a three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq*).

DATES: Comments must be filed on or before November 3, 2000. If you anticipate that you will be submitting comments but find it difficult to do so within that period, you should contact the OMB Desk Officer for DOE listed below as soon as possible.

ADDRESSES: Send comments to the OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–3084. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Jay Casselberry, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Mr. Casselberry may be contacted by telephone at (202) 426–1116, FAX at (202) 426–1081, or e-mail at Jay.Casselberry@eia.doe.gov.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collections submitted to OMB for review: (1) The collection numbers and title; (2) the sponsor (i.e., the Department of Energy component); (3) the current OMB docket number (if applicable); (4) the type of request (i.e, new, revision, extension, or reinstatement); (5) response obligation (i.e., mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (*i.e.,* the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. Forms EIA–23, 23P, and 64A, ''Oil and Gas Reserves System Surveys''
2. Energy Information Administration
3. OMB Number 1905–0057
4. Three-year extension with changes
5. Mandatory
6. EIA's Oil and Gas Reserves Systems Surveys collect data used to estimate reserves of crude oil, natural gas, and natural gas liquids, and to determine the status and approximate levels of production. Data are published by EIA and used by public and private analysts. Respondents are operators of oil wells, natural gas wells, and natural gas processing plants.
7. Business or other for-profit
8. 74,236 (4505 respondents 7×1 response per year $\times$ 16.4786 hours per response)

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

Issued in Washington, DC, September 27, 2000.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 00–25457 Filed 10–3–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–565–000]

ANR Storage Company; Notice of Tariff Filing

September 28, 2000.

Take notice that on September 25, 2000, ANR Storage Company (ANRS) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective March 27, 2000.

ANRS states that the purpose of the filing is to incorporate changes to conform to the new regulations under Section 284.8(i), governing standards for Ceiling Rates for Short Term Capacity Releases.

ANRS states that copies of the filing were served upon the company's Jurisdictional customers.

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. 00–25415 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–564–000]

Blue Lake Gas Storage Company; Notice of Compliance Filing

September 28, 2000.

Take notice that on September 25, 2000, Blue Lake Gas Storage Company (Blue Lake) 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 be effective March 27, 2000.

Blue Lake states that the purpose of the filing is to incorporate changes to conform to the new regulations under Section 284.8(i), governing standards for Ceiling Rates for Short Term Capacity Releases.

Blue Lake states that copies of the filing were served upon the company's Jurisdictional customers.

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. 00–25414 Filed 10–03–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG00–1–002]

Clear Creek Storage Company, L.L.C.; Notice of Filing

September 28, 2000.

Take notice that Clear Creek Storage Company, L.L.C. submitted revised standards of conduct on September 7, 2000 in response to the Commission's June 2, 2000 Order on Standards of Conduct, 91 FERC ¶ 61,240 (2000).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 oR 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before October 13, 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25407 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3758–000]

Coyote Springs 2, LLC; Notice of Filing

September 28, 2000.

Take notice that on September 26, 2000, Coyote Springs 2, LLC (Coyote Springs 2) tendered for filing a petition for acceptance of an initial rate schedule authorizing Coyote Springs 2 to make wholesale sales of power at market-based rates.

Any person desiring to be heard or to protest said 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 or 215 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene and protests should be filed on or before October 6, 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. 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. 00–25411 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG00–8–001]

Egan Hub Partners, L.P.; Notice of Filing

September 28, 2000.

Take notice that Egan Hub Partners, L.P. submitted revised standards of conduct on August 31, 2000 in response to the Commission's August 1, 2000 Order on Standards of Conduct, 92 FERC ¶ 61,137 (2000).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 or 215 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before October 13, 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 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 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. 00–25408 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG00–11–000]

Kern River Gas Transmission Company; Notice of Filing

September 28, 2000.

Take notice that on September 22, 2000, Kern River Gas Transmission Company filed revised standards of conduct under Order Nos. 497 *et seq.,*[1] Order Nos. 566 *et seq.,*[2] and Order No. 599.[3]

[1] Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Regs. 1986–1990 ¶30,820 (1988); Order No. 497–A, *order on rehearing,* 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986–1990 ¶30,868 (1989); Order No. 497–B, *order extending sunset date,* 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. 1986–1990 ¶30,908 (1990); Order No. 497–C, *order extending sunset date,* 57 FR 9 (January 2, 1992), FERC Stats. & Regs. 1991–1996 ¶30,934 (1991), *rehearing denied,* 57 FR 5815 (February 18, 1992), 58 FERC ¶61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F.2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date,* 57 FR 58978 (December 14, 1992), FERC Stats. & Regs. 1991–1996 ¶30,958 (December 4, 1992); Order No. 497–E, *order on rehearing and extending sunset date,* 59 FR 243 (January 4, 1994), FERC Stats. & Regs. 1991–1996 ¶30,987 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification,* 59 FR 15336 (April 1, 1994), 66 FERC ¶61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date,* 59 FR 32884 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶30,997 (June 17, 1994); Order No. 566–A, *order on rehearing,* 59 FR 52896 (October 20, 1994), 69 FERC ¶61,044 (October 14, 1994); Order No. 566–B, *order on rehearing,* 59 FR 65707, (December 21, 1994), 69 FERC ¶61,334 (December 14, 1994).

[3] Reporting Interstate Natural Gas Pipeline Marketing Affiliates on the Internet, Order No. 599,

Continued

Any person desiring to be heard or to protest said 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 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before October 13, 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 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 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. 00–25410 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–337–000]

Kern River Gas Transmission Company; Notice of Technical Conference

September 28, 2000.

On June 15, 2000, Kern River Gas Transmission Company (Kern River) filed in compliance with Order No. 637. Several parties have protested various aspects of Kern River's filing.

Take notice that the technical conference to discuss the various issues raised by Kern River's filing will be held on Thursday, October 12, 2000, at 9:30 am, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426. Parties protesting aspects of Kern River's filing should be prepared to discuss alternatives.

All interested persons and Staff are permitted to attend.

David P. Boergers,

Secretary.

[FR Doc. 00–25412 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–M

63 FR 43075 (August 12, 1998), FERC Stats. & Regs. 31,064 (1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG00–10–000]

Northwest Gas Pipeline Corporation; Notice of Filing

September 28, 2000.

Take notice that on September 22, 2000, Northwest Gas Pipeline Corporation filed revised standards of conduct under Order Nos. 497 *et seq.*,[1] Order Nos. 566 *et seq.*,[2] and Order No. 599.[3]

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before October 13, 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 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 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. 00–25409 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–M

[1] Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Regs. 1986–1990 ¶ 30,820 (1988); Order No. 497–A, *order on rehearing*, 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986–1990 ¶ 30,868 (1989); Order No. 497–B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. 1986–1990 ¶ 30,908 (1990); Order No. 497–C *order extending sunset date*, 57 FR 9 (January 2, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,934 (1991), *rehearing denied*, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (Affirmed in part and remanded in part), 969 F.2d 1187 (D.C. Cir. 1992); Order No. 497–D *order on remand and extending sunset date*, 57 FR 58978 (December 14, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,958 (December 4, 1992); Order No. 497–E, *order on rehearing and extending sunset date*, 59 FR 243 (January 4, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,987 (December 23, 1993); Order No. 497–F *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date*, 59 FR 32884 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994) FERC Stats. & Regs. 1991–1996 ¶ 30,997 (June 17, 1994); Order No. 566–A *order on rehearing*, 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566–B, *order on rehearing*, 59 FR 65707, (December 21, 1994), 69 FERC ¶ 61,334 (December 14, 1994).

[3] Reporting Interstate Natural Gas Pipeline Marketing Affiliates on the Internet, Order No. 599, 63 FR 43075 (August 12, 1998), FERC Stats. & Regs. 31,064 (1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–566–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Tariff Filing

September 28, 2000.

Take notice that on September 25, 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 sheets, with an effective date of October 25, 2000:

Third Revised Sheet No. 81.01a
Fifth Revised Sheet No. 121
Fourth Revised Sheet No. 122
Fourth Revised Sheet No. 168

PG&E GTN asserts that the purpose of this filing is to eliminate its queue for scheduling interruptible capacity.

PG&E GTN further states that a copy of this filing has been served on PG&E GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.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. 00–25416 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–567–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Tariff Filing

September 28, 2000.

Take notice that on September 25, 2000, PG&E Gas Transmission, Northwest Corporation (PG&E GTN) tendered for filing to be part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following tariff sheets, with an effective date of March 27, 2000:

Third Revised Sheet No. 99
Third Revised Sheet No. 101

PG&E GTN states that these sheets were filed to remove tariff language inconsistent with the Commission's temporary elimination of the rate cap for short-term capacity release transactions.

PG&E GTN further states that a copy of this filing has been served on its jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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. 00–25417 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–569–000]

Portland Natural Gas Transmission System; Notice of Proposed Changes in FERC Gas Tariff

September 28, 2000.

Take notice that on September 25, 2000, Portland Natural Gas Transmission System (PNGTS) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets to become effective March 27, 2000;

First Revised Sheet No. 343
First Revised Sheet No. 345
First Revised Sheet No. 347
First Revised Sheet No. 348
First Revised Sheet No. 351
First Revised Sheet No. 352
First Revised Sheet No. 354
First Revised Sheet No. 355

PNGTS 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.

PNGTS 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. 00–25419 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–559–001]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 28, 2000.

Take notice that on September 25, 2000, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective November 1, 2000:

First Revised Sheet No. 10
Original Revised Sheet No. 15

REGT states that these tariff sheets were inadvertently omitted from its filing on September 22, 2000 to implement an in-kind option for Shippers electing service under REGT's Rate Schedule ANS.

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 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. 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. 00–25413 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–568–000]

Viking Gas Transmission Company; Notice of Tariff Filing

September 28, 2000.

Take notice that on September 25, 2000, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

Fourth Revised Sheet No. 72
Second Revised Sheet No. 79
Seventh Revised Sheet No. 86
Second Revised Sheet No. 86A

Viking states that the purpose of this filing is to comply with the Commission's requirement in Order No. 637, Regulation of Short-Term Natural Gas Transportation Service and Regulation of Interstate Natural Gas Transportation Services, FERC Regulations Preambles ¶31,091 (February 9, 2000) that pipelines remove tariff provisions that are inconsistent with the removal of the maximum ceiling rate for short-term capacity release transactions. Viking is also clarifying its tariff to better reflect current Commission policy on the right of first refusal (ROFR).

Viking requests an effective date of March 27, 2000 for Sheet Nos. 72 and 79 (capacity release provisions) to coincide with the effective date of Order No. 637 and accordingly requests waiver of the Commission's notice requirements, Viking requests an effective date of October 25, 2000 for Sheet Nos. 86 and 86A (ROFR provisions).

Viking further states that copies of this filing have been served on all Viking's jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accorrdance 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. 00–25418 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–142–000, et al.]

Cleco Utility Group Inc., et al.; Electric Rate and Corporate Regulation Filings

September 27, 2000.

Take notice that the following filings have been made with the Commission:

1. Cleco Utility Group Inc.

[Docket No. EC00–142–000]

Take notice that on September 22, 2000, Cleco Utility Group Inc. (Cleco Utility) submitted an application pursuant to Section 203 of the Federal Power Act for authority to implement a proposed restructuring of Cleco Utility's business organization to operate as a limited liability company rather than a corporation that would be accomplished by means of a merger.

Comment date: October 13, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Cannelton Hydroelectric Project, L.P.

[Docket No. EG00–257–000]

Take notice that on September 25, 2000, Cannelton Hydroelectric Project, L.P. (Cannelton), 120 Calumet Court, Aiken, South Carolina 29801, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Cannelton is a Tennessee limited partnership that proposes to construct, own and operate a hydroelectric facility in Hancock County, Kentucky. The facility will consist of a 79.2 MW hydroelectric plant at the United States Army Corps of Engineers' Cannelton Locks and Dam on the Ohio River in Hancock County, Kentucky. Power modules, containing small turbines and generators, will be installed in eight of the gate bays at the existing Cannelton Dam. Expected annual energy generated will be 363 GWh. Interconnecting transmission facilities necessary to effect a sale of electric energy at wholesale include switchgear and an 8.3 mile long, 138 kV transmission line from the project along the Kentucky side of the river to the LG&E Cloverport substation.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Smithland Hydroelectric Partners, Ltd.

[Docket No. EG00–258–000]

Take notice that on September 25, 2000, Smithland Hydroelectric Partners, Ltd. (Smithland), 120 Calumet Court, Aiken, South Carolina 29801, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Smithland is a Kentucky partnership that proposes to construct, own and operate a hydroelectric facility in Livingston County, Kentucky. The facility will consist of an 83 MW hydroelectric plant at the United States Army Corps of Engineers' Smithland Lock and Dam on the Ohio River east of Smithland, Kentucky in Livingston County. Power modules, containing small turbines and generators, will be installed in five of the eleven gate bays at Smithland Dam. Expected annual energy generated will be 352 GWh. Interconnecting transmission facilities necessary to effect a sale of electric energy at wholesale include gas-isolated switchgear and an 11.4 mile long, 161 kV transmission line from the project to an interconnection with TVA's 500/161 kV Marshall substation or, alternatively if subsequently approved by the Commission, to an interconnection with the LG&E Energy Livingston County, KY substation.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Duke Power, a Division of Duke Energy Corporation

[Docket No. ER00–3454–001]

Take notice that on September 22, 2000, Duke Power, a division of Duke Energy Corporation (Duke Power), tendered for filing FERC Electric Tariff, Original Vol. No. 5—Wholesale Market-Based Rate Tariff Providing For Sales Of Capacity, Energy, Or Ancillary Services And Resale Of Transmission Rights. This filing replaces an earlier filing in Docket ER00–3454.

Comment date: October 13, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Mid-Atlantic Area Council

[Docket No. ER00–3735–000]

Take notice that on September 22, 2000, PJM Interconnection, L.L.C. (PJM) in its administrative support role to the Mid-Atlantic Area Council (MAAC),

submitted for filing a new Mid-Atlantic Area Council Agreement (MAAC Agreement). PJM states that the new MAAC Agreement provides for broad membership, a new governance structure that is not dominated by any company or sector, an independent compliance and enforcement unit, and recovery of MAAC expense through PJM's Open Access Transmission Tariff.

PJM requests an effective date of January 1, 2001 for the new MAAC Agreement.

Comment date: October 13, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Southern California Edison Company

[Docket No. ER00–3739–000]

Take notice that on September 22, 2000, Southern California Edison Company (SCE) tendered for filing a Service Agreement for Wholesale Distribution Service (Agreement) between AES Placerita, Inc. (Placerita) and SCE.

This Agreement specifies the terms and conditions pursuant to which SCE will provide Distribution Service for up to an additional 15 MW of power produced by Placerita's generating facility. The facilities provided for in the Interconnection Facilities Agreement executed October 3, 1999 are all the Direct Assignment Facilities required to provide this service.

Comment date: October 13, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. New York Independent System Operator, Inc.

[Docket No. ER00–3740–000]

Take notice that on September 22, 2000, the New York Independent System Operator, Inc. (NYISO) tendered for filing proposed revisions to Sections 5.9–5.15 of its Market Administration and Control Area Services Tariff.

The NYISO requests an effective date of 60 days after this filing (November 21, 2000).

Copies of this filing were served upon all persons who have signed the NYISO Market Administration and Control Area Services Tariff.

Comment date: October 13, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. PJM Interconnection, L.L.C.

[Docket No. ER00–3741–000]

Take notice that on September 22, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing an executed umbrella service agreement for short-term firm point-to-point transmission service for Amerada Hess Corporation (Amerada), an executed service agreement for non-firm point-to-point transmission service for Amerada, and an executed umbrella service agreement for network integration transmission service for Metromedia Energy, Inc. (Metromedia).

Copies of this filing were served upon Amerada, Metromedia, and the state commissions within the PJM control area.

Comment date: October 13, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Northeast Utilities Service Company

[Docket No. ER00–3742–000]

Take notice that on September 22, 2000, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company (CL&P) and Western Massachusetts Electric Company (WMECO), tendered for filing two agreements dated April 10, 2000, under which the Companies have agreed to sell and deliver to Constellation Power Source, Inc. (CPS) capacity and energy and associated ancillary services to which the Companies are entitled under sixteen power purchase agreements.

To permit the transaction to close as scheduled, NUSCO requests that this filing be accepted by no later than December 1, 2000.

Comment date: October 13, 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. 00–25406 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–495–019, et al.]

Geysers Power Company, LLC, et al.; Electric Rate and Corporate Regulation Filings

September 26, 2000.

Take notice that the following filings have been made with the Commission:

1. Geysers Power Company, LLC

[Docket No. ER98–495–019]

Take notice that on September 21, 2000, Geysers Power Company, LLC (Geysers Power) filed its final report regarding refunds for the reliability must-run (RMR) agreement under which Geysers Power provides RMR services to the Independent System Operator Corporation (ISO). Geysers Power submits the final refund report in accordance with the Commission letter order dated January 31, 2000, Geysers Power Company, LLC, 90 FERC ¶ 61,096 (2000) approving the settlement among Geysers Power, Pacific Gas and Electric Company, the ISO and the California Electricity Oversight Board.

As stated in its interim refund report filed on March 16, 2000, Geysers Power issued refunds to the ISO by crediting the refund amount which resulted from the settlement against subsequent charges for RMR services. Geysers Power's refund obligation has now been fulfilled.

Comment date: October 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Entergy Services, Inc.

[Docket No. ER00–2415–001]

Take notice that on September 21, 2000, Entergy Services, Inc. (Entergy Services), as agent for Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing certain corrections to the 2000 annual rate redetermination for Entergy Services' Open Access Transmission Tariff.

Comment date: October 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Entergy Services, Inc.

[Docket No. ER00–2854–001]

Take notice that on September 21, 2000, pursuant to the Commission's order issued in the above-referenced docket on August 22, 2000, Entergy Services, Inc., 92 FERC ¶ 61,171 (2000),

Entergy Services, Inc., on behalf of the Entergy Operating Companies (Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc. and Entergy New Orleans, Inc.) (collectively, Entergy), re-filed the entire System Agreement according to the requirements of Order No. 614, 65 Fed. Reg. 18,221, FERC Stats. and Regs. ¶ 31,096 (2000).

Entergy has served a copy of this filing on the service list in the above-referenced docket.

Comment date: October 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. DePere Energy Marketing, Inc.

[Docket No. ER00–3446–001]

Take notice that on September 21, 2000, DePere Energy Marketing, Inc. tendered for filing, pursuant to Order No. 614, the rate schedule designations for the cancellation of its Rate Schedule FERC No. 1.

Comment date: October 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Virginia Electric and Power Company

[Docket No. ER00–3724–000]

Take notice that on September 21, 2000, Virginia Electric and Power Company (Virginia Power) tendered for filing a Letter of Termination from PPL EnergyPlus, LLC, successor to Pennsylvania Power and Light Co. (PP&L). The Letter of Termination requests termination of the Service Agreement with Virginia Power dated May 15, 1995 and approved by the FERC in an order dated July 19, 1995 in Docket No. ER95–1214–000. Virginia Power requests that the Letter of Termination be designated as Second Revised Service Agreement No. 17 under FERC Electric Tariff, Original Volume No. 4.

Virginia Power respectfully requests an effective date of the termination of the Service Agreement of November 6, 2000, as requested by PPL EnergyPlus, LLC.

Copies of the filing were served upon PPL EnergyPlus, LLC, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: October 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. PacifiCorp

[Docket No. ER00–3725–000]

Take notice that on September 21, 2000, PacifiCorp tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Notice of Filing Mutual, and a Netting/Closeout Agreement (Netting Agreement) between PacifiCorp and the BP Energy Company (BP).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: October 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. PacifiCorp

[Docket No. ER00–3726–000]

Take notice that on September 21, 2000, PacifiCorp tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, an umbrella Service Agreement with Coral Power LLC (Coral) under PacifiCorp's FERC Electric Tariff, Third Revised Volume No. 12 (Tariff). In addition, PacifiCorp has resubmitted the Tariff in accordance with the Commission's Order No. 614.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: October 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Entergy Services, Inc.

[Docket No. ER00–3728–000]

Take notice that on September 21, 2000, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., tendered for filing an Interconnection and Operating Agreement with Wrightsville Power Facility, LLC (Wrightsville), and a Generator Imbalance Agreement with Wrightsville.

Comment date: October 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Public Service Company of Oklahoma

[Docket No. ER00–3729–000]

Take notice that on September 21, 2000, Public Service Company of Oklahoma (PSO) filed an Interconnection Agreement between PSO and Panda Oneta Power, L.P. (Panda).

PSO states that a copy of the filing was served on Panda and the Oklahoma Corporation Commission.

Comment date: October 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. KPIC North America Corporation

[Docket No. ER00–3734–000]

Take notice that on September 21, 2000, KPIC North America Corporation (Seller) petitioned the Commission for an order: (1) Accepting Seller's proposed FERC Electric Tariff (Market-Based Rate Tariff); (2) granting waiver of certain requirements under Subparts B and C of Part 35 of the regulations, (3) granting the blanket approvals normally accorded sellers permitted to sell at market-based rates, and (4) granting waiver of the 60-day notice period.

Comment date: October 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER00–3737–000]

Take notice that on September 21, 2000, Cinergy Services, Inc. (Cinergy) tendered for filing a Service Agreement under Cinergy's Resale, Assignment or Transfer of Transmission Rights and Ancillary Service Rights Tariff (the Tariff) entered into between Cinergy and TXU Energy Trading Company (TXU). This Service Agreement has been executed by both parties and is to replace the existing unexecuted Service Agreement.

Comment date: October 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER00–3738–000]

Take notice that on September 21, 2000, Cinergy Services, Inc. (Cinergy) tendered for filing a Service Agreement under Cinergy's Resale, Assignment or Transfer of Transmission Rights and Ancillary Service Rights Tariff (the Tariff) entered into between Cinergy and Canadian Niagara Power Co., LTD. (CanNiagara). This Service Agreement has been executed by both parties and is to replace the existing unexecuted Service Agreement.

Comment date: October 12, 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. 00–25405 Filed 10–3–00; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30500; FRL–6742–1]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products and a pesticide product involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30500, must be received on or before November 3, 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. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30500 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, listed in the table below:

Regulatory Action Leader	Telephone number/e-mail address	Mailing address	File symbol/EPA reg. #
Driss Benmhend	703–308–9525; e-mail: benmhend.driss@epa.gov	1200 Pennsylvania Ave., NW., Washington, DC 20460	71297–1
Sharlene R. Matten	703–605–0514; e-mail: matten.sharlene@epa.gov	Do.	69697–R and 69697–E
Alan Reynolds	703–605–0515; e-mail: reynolds.alan@epa.gov	Do.	70571–E, 73314–E and 73314–R

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 OPP–30500. 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 Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

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 OPP–30500 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 OPP–30500. 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. Offer alternative ways to improve the registration activity.

7. Make sure to submit your comments by the deadline in this notice.

8. 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. Registration Application

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products or registered active ingredients with a significant new use pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

A. Products Containing Active Ingredients Not Included in Any Previously Registered Products

1. File Symbol: 69697–R and 69697–E. Applicant: Jellinek, Schwartz & Connolly, Inc., 1525 Wilson Boulevard, Suite 600, Arlington, VA 22209 for Plant Products Co. Ltd., 314 Orenda Road, Brampton, Ontario, Canada. Product Name: Sporodex WP. Biological fungicide. Active ingredient: *Pseudozyma flocculosa* at 2%. Proposed classification/Use: Control powdery mildew disease on greenhouse-grown cut roses and English seedless cucumber.

2. File Symbol: 70571–E. Applicant: Encore Technologies LLC, 111 Cheshire Lane, Minnetonka, MN 55305. Product Name: Mallet WP. Herbicide. Active ingredient: *Colletotrichum gloeosporioides* f. sp. *malvae* at 8.0%. Proposed classification/Use: Post-emergent control of the weeds round-leaved mallow and small-flowered mallow.

3. File Symbols: 73314–R and 73314–E. Applicant: Natural Industries, Inc., 6223 Theall Road, Houston, TX 77066. Product Name: Actinovate Soluble and Actinovate Iron Fulvate. Fungicide. Active ingredient: *Streptomyces lydicus* WYEC 108 at 1.0%. Proposed classification/Use: Control of soil borne plant root rot and damping-off fungi.

B. Product Containing the Active Ingredient (1-methylcyclopropene) Involving a Changed Use Pattern

EPA Registration Number: 71297–1. Applicant: BioTechnologies for Horticulture, Inc., 101 Independence Mall West, Philadelphia, PA 19106–2399. Product name: EthylBloc®. The product contains the already registered active ingredient 1-methylcyclopropene and is intended for indoor use as a plant growth regulator on post-harvest fruits and vegetables for the purpose of inhibiting the effects of ethylene on food commodities. This is a significant new use.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: September 18, 2000.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 00–25229 Filed 10–3–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6880–9]

Draft Dioxin Reassessment Documents; Dose-Response Modeling for 2,3,7,8-TCDD, Toxic Equivalency Factors (TEFS) for Dioxin and Related Compounds and Integrated Summary and Risk Characterization for 2,3,7,8-Tetrachlorodibenzo-*p*-Dioxin (TCDD) and Related Compounds

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of draft documents for public review and comment and announcement of close of public comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing the availability of Science Advisory Board (SAB) review drafts of the Draft Dioxin Reassessment Documents, Chapter 8: Dose-Response Modeling for 2,3,7,8-TCDD, Chapter 9: Toxic Equivalency Factors (TEFs) for Dioxin and Related Compounds, and Part III: Integrated Summary and Risk Characterization for 2,3,7,8-Tetrachlorodibenzo-*p*-Dioxin (TCDD) and Related Compounds, for public review and comment. The documents were prepared by the EPA's Office of Research and Development (ORD) with the involvement of other federal agencies, in particular the National Institutes of Health's National Institute

of Environmental Health Sciences. The Agency is also announcing the date for the close of the public comment period that began on June 12, 2000.

DATES: In a June 12, 2000 **Federal Register** (65 FR 36898), the Agency announced the beginning of an extended public comment period, on both a previous version of these draft documents as well as those discussed in this Notice. It announced that the comment period began on June 12 and will be concluded two weeks following the SAB peer review meeting in the Fall. All public comments should be submitted by close of business on November 17, 2000. The SAB review meeting is scheduled for November 1 and 2, 2000, and details related to that meeting will be announced in a separate FR notice.

Document Availability

The primary distribution method for the three SAB review drafts of the dose-response modeling chapter (hereafter, Chapter 8), the TEF chapter (hereafter, Chapter 9) and Integrated Summary and Risk Characterization (hereafter, Part III) will be via the Internet on ORD's National Center for Environmental Assessment (NCEA) website. These SAB review drafts, in PDF format, are available at http://www.epa.gov/ncea/dioxin.htm. These documents can be reviewed and downloaded from the Internet. Background information is also available at the above-mentioned Internet site. This information, provided as background only, consists of other draft final exposure and health sections of the reassessment, specifically Part I: Estimating Exposure to Dioxin-Like Compounds (Volumes 2–4) and Part II: Health Assessment for 2,3,7,8-Tetrachlorodibenzo-*p*-Dioxin (TCDD) and Related Compounds (Chapters 1–7). In addition, a Compact Disk-Read Only Memory (CD–ROM) containing the three SAB review drafts, the background information, and the draft final Database of Sources of Environmental Releases of Dioxin-Like Compounds in the United States, is available from EPA's National Service Center for Environmental Publications (NSCEP) in Cincinnati, Ohio (telephone: 1–800–490–9198, or 513–489–8190; facsimile 513–489–8695). If you are requesting a copy of the CD–ROM, please provide your name, mailing address, and reference the ''Dioxin CD/September 2000'' and document number EPA/600/P–00/001Bb-Be. The background documents are available only on CD–ROM and the Internet. A limited number of paper copies of draft Chapter 8, Chapter 9, and Part III will be available from NSCEP. To receive paper copies please provide your name, mailing address, and the document title and number, Part II. Chapter 8: Dose-Response Modeling for 2,3,7,8–TCDD, document number NCEA–I–0835; Part II. Chapter 9: Toxic Equivalency Factors (TEFs) for Dioxin and Related Compounds, document number NCEA–I–0836; and/or Part III. Integrated Summary and Risk Characterization for 2,3,7,8-Tetrachlorodibenzo-*p*-Dioxin (TCDD) and Related Compounds, document number EPA/600/P–00/001Bg.

Comment Submission

Comments should be in writing and mailed to the Technical Information Staff (8623D), NCEA–W, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Ariel Rios Building, Washington, DC 20460, or delivered to the Technical Information Staff at 808 17th Street, N.W., 5th Floor, Washington, DC 20006; telephone: (202) 564–3261; facsimile: (202) 565–0050. One unbound original with pages numbered consecutively, including attachments, and three copies should be submitted. An index is required for any attachments. Electronic comments may be emailed to: ncea.dioxin@epa.gov. Commentors are requested to make clear that their comments pertain to the September 2000 SAB review drafts.

Please note that all technical comments received in response to this notice will be placed in a public record. Commentors should not submit personal information (such as medical data or home address), Confidential Business Information, or information protected by copyright. Due to limited resources, acknowledgments will not be sent.

FOR FURTHER INFORMATION CONTACT: For information contact the Technical Information Staff, NCEA–W (8623D), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460; telephone: 202–564–3261; facsimile: 202–565–0050; e-mail: ncea.dioxin@epa.gov.

SUPPLEMENTARY INFORMATION: In April 1991, EPA announced that it would conduct a scientific reassessment of the health risks of exposure to dioxin and dioxin-like compounds. EPA undertook the 1991 reassessment in light of significant advances in our scientific understanding of mechanisms of dioxin toxicity, significant new studies of dioxin's carcinogenic potential in humans and increased evidence of other adverse health effects.

In September 1994, EPA released the external review drafts of the health effects and exposure documents. In late 1994, EPA took public comment and held numerous public meetings across the country on the drafts, followed by SAB review of the draft dioxin reassessment in May 1995. The SAB's report was received in the Fall of that year. In its report to the Agency, the SAB responded favorably to most portions of the reassessment, but recommended substantive revision of two key sections (Chapter 8 and the Risk Characterization document) and development of an additional document that would focus on TEFs for dioxin and dioxin-like compounds. They also requested that the two redrafted documents and the new TEF chapter be submitted for independent external peer review before being returned to the SAB for re-review. With respect to Chapters 1–7 of the health document and the full exposure reassessment document, the SAB accepted these sections. They suggested that the sections be updated to address public and SAB comments and to incorporate new scientific data. However, the SAB's report stated that substantive further review of these sections by the SAB was not needed.

On July 25 and 26, 2000, an external scientific peer-review meeting was held to review the new Chapter 9 and revised Part III. The third section of the reassessment on which the SAB recommended substantive revision, Chapter 8, underwent public comment and external peer review in March 1997. The July peer review meeting focused on the key science issues including: the characterization of cancer risk, how to extrapolate between animals and humans, non-cancer effects seen close to background exposures, and children's risk. A range of opinions regarding EPA's treatment of these issues in the draft chapters were expressed. Suggestions were made regarding improved presentation of these key science issues.

After the July 25 and 26 external peer review meeting and subsequent receipt of the final meeting report, dated August 24, the documents were revised to address the comments of the scientific peer reviewers and the public comments received prior to September 25, the date the drafts were provided to the SAB review panel. The SAB will conduct its scientific peer review of draft Chapter 8, Chapter 9, and Part III on Wednesday and Thursday, November 1 and 2. The SAB review will be announced in a separate **Federal Register** notice. Following the SAB meeting, EPA will revise the draft reassessment documents to incorporate appropriate changes that have been indicated by the comments of Federal agencies, the public, and the SAB review panel. SAB approval is

needed to produce a final EPA dioxin reassessment document.

Dated: September 28, 2000.

Henry L. Longest II,

Deputy Assistant Administrator for Management, Office of Research and Development.

[FR Doc. 00–25473 Filed 10–3–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6880–4]

Proposed CERCLA Administrative Cost Recovery Settlement; Jasco Chemical Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past and future response costs concerning the Jasco Chemical Superfund Site in Mountain View, California with the following settling parties: JASCO Chemical Corporation, Harry M. Anthony, and Carol Jean Anthony. The settlement requires the settling parties to pay $5,862.60, all of the outstanding past response costs as of 31 March 2000, and all future response costs (costs after 31 March 2000) to the U.S. Environmental Protection Agency (the ''Agency'' or ''EPA'') Hazardous Substance Superfund. Under the terms of the AOC, the Parties will pay $5,862.60 to the Superfund within 10 days of the effective date of the AOC. Furthermore, the Parties agree to pay the United States' future response costs incurred at or in connection with the Site. Upon payment by the settling parties of EPA's response costs, the settling parties shall have resolved any and all civil liability to EPA under Section 107(a) of CERCLA, 42 U.S.C. 9607(a), for reimbursement of such response costs. For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at Jasco Chemical Superfund Site at 1710 Villa Street, Mountain View, California and at USEPA Region IX, 75 Hawthorne Street, San Francisco, California.

DATES: Comments must be submitted on or before November 3, 2000.

ADDRESSES: The proposed settlement document is available for public inspection at EPA Region IX, 75 Hawthorne Street, San Francisco, California. A copy of the proposed settlement document may be obtained from Ellen Manges, Superfund Division (SFD–7–2), USEPA Region IX, 75 Hawthorne St., San Francisco, California, (415) 744–2228. Comments should reference the Jasco Chemical Superfund Site, Mountain View, California, and EPA Docket No. 2000–11 and should be addressed to Ellen Manges, Superfund Division (SFD–7–2), USEPA Region IX, 75 Hawthorne St., San Francisco, California.

FOR FURTHER INFORMATION CONTACT: Ellen Manges, Superfund Division (SFD–7–2), USEPA Region IX, 75 Hawthorne St., San Francisco, California, (415) 744–2228.

Dated: September 25, 2000.

John Kemmerer,

Acting Director, Superfund Division, Region IX.

[FR Doc. 00–25472 Filed 10–3–00; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

September 26, 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 November 3, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0292.

Title: Part 69—Access Charges.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,458 respondents; 5,832 responses.

Estimated Time Per Response: 5 hours.

Frequency of Response: Third party disclosure requirement; on occasion, semi-annual, annual, biennial, and/or monthly reporting requirements.

Total Annual Burden: 27,702 hours.

Total Annual Cost: N/A.

Needs and Uses: Part 69 of the Commission's rules and regulations establishes the rules for access charges for interstate or foreign access provided by telephone companies. Local telephone companies and states are required to submit information to the Commission and/or the National Exchange Carrier Association (NECA). The information is used to compute charges in tariffs for access service (or origination and termination) and to computer revenue pool distributions. This information collection was revised due to expiration of two requirements, *i.e.,* Section 69.104(k)(1) and 69.104(l).

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–25389 Filed 10–3–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 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.: 010776–117.

Title: Asia North America Eastbound Rate Agreement.

Parties: A.P. Moller-Maersk Sealand, American President Lines, Ltd., APL Co. PTE Ltd., Hapag-Lloyd Container Linie GmbH, Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha, Orient Overseas Container Line, Inc., P&O NedLloyd B.V., P&O NedLloyd Limited.

Synopsis: The subject modification would extend the current suspension of the agreement for an additional six months through May 1, 2001.

Agreement No.: 011695–002.

Title: CMA–CGM/Norasia Reciprocal Space Charter, Sailing and Cooperative Working Agreement.

Parties: Norasia Container Lines Limited (''Norasia''), CMA–CGM S.A.

Synopsis: The proposed amendment increases Norasia's allocation under the agreement from 4% to 30% due to Norasia's sale of four of its vessels. The parties have requested expedited review.

Agreement No.: 011725.

Title: APL/GWF Slot Exchange Agreement.

Parties: American President Lines, Ltd. (''APL''), APL Co. Pte. Ltd.(''APL''), Great White Fleet (U.S.) Ltd. (''GWF'').

Synopsis: The proposed agreement authorizes the exchange or sale of space between APL and GWF on each other's vessel operating in the trade between United States Atlantic and Gulf Coast ports, and U.S. inland and coastal points served via those ports, and ports and points in Guatemala, Honduras, El Salvador, Nicaragua, and Costa Rica.

Agreement No.: 011726.

Title: Maersk Sealand—New World Alliance/CMA–CGM Slot Charter Agreement.

Parties: A. P. Moller-Maersk Sealand, American President Lines, Ltd., APL Co. PTE Ltd., CMA–CGM S.A., Hyundai Merchant Marine Co., Ltd., Mitsui O.S.K. Lines, Ltd.

Synopsis: Under the proposed agreement, CMA–CGM will charter 600 slots each week on vessels operated by Maersk Sealand and the New World Alliance in the trade between U.S. East and Gulf Coast ports and ports in Europe.

Agreement No.: 011727.

Title: CMA–CGM/Norasia Pacific Slot Charter Agreement.

Parties: Norasia Container Lines Limited (''Norasia''), CMA–CGM S.A. (''CMA–CGM'').

Synopsis: The proposed agreement authorizes CMA–CGM to slot charter space to Norasia in the trade between Long Beach, CA and ports in China, South Korea, and Taiwan. The parties request expedited review.

Dated: September 29, 2000.

By Order of the Federal Maritime Commission

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 00–25477 Filed 10–3–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 00–11]

New Orleans Stevedoring Co. v. Board of Commissioners, Port of New Orleans; Notice of Filing of Complaint and Assignment

Notice is given that a complaint was filed by New Orleans Stevedoring Company, a division of James J. Flanagan Shipping Corporation, (''Complainant'') against the Board of Commissioners of the Port of New Orleans (''Respondent''). Complainant alleges that Respondent violated the Shipping Act of 1984 (''Shipping Act'') by unreasonably refusing to deal or negotiate with Complainant and by giving undue and unreasonable preference and advantage to Complainant's competitors and by inflicting undue and unreasonable prejudice and disadvantage upon Complainant in connection with the use of marine terminal facilities in New Orleans.

Complainant asks that the Respondent be made to answer these charges, and that after due hearing, an order be made commanding the Respondent to cease and desist from these violations; to establish and put in force such practices as the Commission determines to be lawful and reasonable; to pay Complainant by way of reparations $1,000,000 plus such additional damages as may be proved, together with interest and attorney fees, or such other sum as the Commission may determine to be proper as reparation.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by October 1, 2001, and the final decision of the Commission shall be issued by January 29, 2002.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 00–25478 Filed 10–3–00; 8:45 am]

BILLING CODE 6730–01–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 October 18, 2000.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. James Robert Burns, Charles Edward Burns, James Ryan Burns, Traci Lee Burns, Staci Ann Burns, all of St. Francisville, Illinois, and Virginia Ann

Fredrick, Vincennes, Indiana, also known as Burns Control Group, St. Francisville, Illinois; to acquire additional voting shares of HBbancorporation, Inc., Lawrenceville, Illinois, and thereby indirectly acquire additional voting shares of Heritage National Bank, Lawrenceville, Illinois.

Board of Governors of the Federal Reserve System, September 28, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–25401 Filed 10–3–00; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Notice of Public Meeting and Intent To Prepare a Master Plan and an Environmental Impact Statement

The General Services Administration (GSA) announces its intent to prepare a master plan and an Environmental Impact Statement (EIS) for the Suitland Federal Center, and to conduct a public meeting to discuss the project. The master plan will identify sites suitable for development and provide alternative development programs and building configurations, including new construction, building renovations, demolition, or combinations thereof. GSA will prepare the EIS pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, as implemented by the Council on Environmental Quality (40 CFR Parts 14500–14508), Section 106 of the National Historic Preservation Act of 1966, as amended, and in accordance with the Environmental Policies and Procedures implemented by GSA.

GSA is preparing a master plan for the Suitland Federal Center that could accommodate current and future personnel. The master plan will identify developable parcels and provide alternative development scenarios, which may include new construction, renovation of existing facilities, demolition, parking facilities, and open space. The EIS will evaluate the effects of the master plan and resulting employment populations on land use and socio-economic, transportation, cultural, and natural resources.

A public meeting will be held to determine the significant issues related to implementation of the master plan and the long-term use of the Suitland Federal Center. The meeting will serve as part of the formal environmental review/scoping process for the preparation of the EIS. It is important that Federal, regional and local agencies, and interested individuals and groups take this opportunity to identify environmental concerns that should be addressed during preparation of the EIS. The public and review agencies are also encouraged to submit written comments on the potential impacts of the proposed master plan. Public comments received on the potential impacts of the proposed project will be considered for the environmental document. The public and review agencies are encouraged to provide additional comments once the Draft EIS is released.

The public meeting will be held:

Wednesday, October 25th, at 7:00 P.M.
At the Suitland High School Auditorium, 5200 Silver Hill Road, Forestville, Maryland

Adequate signs will be posted on the building to direct meeting participants. The meeting will begin with a brief, formal presentation of the project and the environmental impact assessment process. After the presentation, GSA representatives will be available to receive comments from the public regarding issues of concern and the scope of the EIS. In the interest of available time, each speaker will be asked to limit oral comments to five minutes.

An Informational Packet will be available for review at the public meeting or upon request to the General Services Administration contact identified below. Agencies and the general public are invited and encouraged to provide written comments on the scoping issues in addition to, or in lieu of, oral comments at the public meeting. To be most helpful, environmental review/scoping comments would clearly describe specific issues or topics that the community believes the EIS should address. All written comments regarding the proposed project must be postmarked no later than October 23rd to:

General Services Administration
Attn: Mr. Jag Bhargava
Project Executive, Portfolio Development Division, 7th and D Streets, S.W., Room 2110, Washington, DC 20407

For further information please contact: Mr. Jag Bhargava, General Services Administration (202–708–6944); E-mail: *jag.bhargava@gsa.gov*

Dated: September 25, 2000.

Approved By:

Arthur M. Turowski,

Deputy Assistant Regional Administrator, National Capital Region, GSA.

[FR Doc. 00–25183 Filed 10–3–00; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Agency Information Collection Activities Announcement of OMB Approval; Restrictions on Interstate Travel of Persons

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) is announcing that a collection of information entitled Restriction on Interstate Travel of Persons has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Anne O'Connor, Assistant Reports Clearance Officer, Centers for Disease Control and Prevention, Office of Program Planning and Evaluation, 1600 Clifton Road, MS D–24, Atlanta, Georgia 30333, (404) 639–7090.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 1, 2000 (65 FR 148, Pgs. 46935–46936), the agency announced that the proposed information collection had been submitted to OMB for review and clearance. 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. OMB has now approved the information collection and has assigned OMB control number 0920–0488. The approval expires on September 30, 2003. A copy of the supporting statement for this information collection is available by contacting the CDC Reports Clearance Officer at the address and phone number listed above.

Dated: September 28, 2000.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–25430 Filed 10–3–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcements Nos. OCS–2000–01 and OCS–2001–01]

Request for Applications for the Office of Community Services' Fiscal Years 2000 and 2001 Discretionary Grants Program; Correction

AGENCY: Office of Community Services (OCS), ACF, DHHS.

ACTION: Notice; clarification and correction.

SUMMARY: This notice clarifies Program Announcement No. OCS–2000–01 published in the **Federal Register** on August 19, 1999 (64 FR 45302) and corrects Program Announcement No. OCS–2001–01, published on June 20, 2000 (65 FR 38336). This notice clarifies the Rural Community Facilities Development Program Sub-Priority Area 2.0; it explains what information should have been included in the FY 2000 announcement; and it corrects the error made requesting proposals in the FY 2001 announcement. OCS will not be accepting proposals for FY 2001 under the Rural Community Facilities Development Program—Sub-Priority Area 2.1.

FOR FURTHER INFORMATION CONTACT: Veronica Terrell, Administration for Children and Families, Office of Community Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Phone: 202–401–5295.

For Fiscal Year (FY) 2000: Program Announcement, OCS–2000–01, issued in the **Federal Register** on August 19, 1999, the information provided on page 45304 in the last paragraph under 3. Project and Budget Periods, states ''For Priority Area 2.0, grantees will be funded for 24 month project periods and 12 month budget periods.'' OCS did not mention that the program awardees selected through the competitive process in this round would be awarded a ''Non-Competitive Continuation Grant'' for FY 2001.

For FY 2001: Program Announcement, OCS–2000–01, issued in the **Federal Register** on June 20, 2000, OCS makes the following corrections:

1. On page 38338—Under *3. Project and Budget Periods:* delete the last paragraph and replace it with the following note:

Note: There will be no new grant awards made in Fiscal Year 2001 under Sub-Priority Area 2.1. In Fiscal Year 2000, certain grantees were awarded grants for 24-month project periods and 12 month budget periods. These grantees will receive the grant funds from this category to supplement their second year of funding.

2. On page 38344—Priority Area 2.0 Rural Community Facilities Development should be corrected as follows:

FY 2001 in the first heading and the first sentence should be revised to ''FY 2000.''

The initial 1. should be removed.

The last paragraph should be removed and replaced with a new paragraph to read as follows: ''One grant of approximately $300,000 is anticipated to be made under this sub-priority area for FY 2000.

Remove section 2., Rural Community Facilities, in its entirety. OCS does not intend to compete this sub-priority area for FY 2001. The FY 2000 grantees do not have to apply competitively; their FY 2001 grants will be administered as a non-competitive continuation grant action. At an appropriate time, OCS will invite these grantees to submit requests for continuation funding for the balance of their two-year projects, subject to the availability of funds.

Dated: September 29, 2000.

Robert L. Mott,

Deputy Director, Office of Community Services.

[FR Doc. 00–25476 Filed 10–3–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Nutrient Requirements of Domestic Animals and Critical Roles of Animal Nutrition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Veterinary Medicine, announces the availability of funds to support an unsolicited grant application submitted by the National Academy of Sciences (NAS). The academy has requested funds to support the activities of the National Research Council's (NRC) Committee on Animal Nutrition (CAN). The central emphasis of CAN, through its species subcommittees is the preparation and updating of a series of reports on the nutrient requirements of animals. This series addresses economically important domestic animals, including food- and fiber-producing species, as well as captive fur-bearing species, aquatic species, companion animals, service and working animals, endangered species, and animals that serve as experimental models in biomedical research. In addition CAN identifies emerging problems in the area of animal nutrition and implements appropriate mechanisms, such as deliberative studies, symposia, workshops, or roundtables to address the issues.

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Peggy L. Jones, Division of Contracts and Procurement Management (HFA–520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7160. Correspondence hand-carried or commercially delivered should be addressed to 5630 Fishers Lane (HFA–520), rm. 2129, Rockville, MD 20857.

Regarding the programmatic aspects of this notice: David B. Batson, Office of Research, Center for Veterinary Medicine (HFV–502), Food and Drug Administration, 8401 Muirkirk Rd., Laurel, MD 20708, 301–827–8021.

SUPPLEMENTARY INFORMATION:

I. Eligible Applicants

Assistance will only be provided to the National Academy of Sciences because of the following:

1. The NAS is the only organization that submitted an unsolicited application for the purpose stated above.

2. The NAS is the only organization that has a standing Committee on Animal Nutrition for the purpose of preparing and updating reports on the nutrient requirements of animals.

3. The NRC is unique with regard to its operation and policies. The core of the NRC's work consists of studies conducted by experts selected by the NRC expressly for their expertise in the relevant scientific issues at hand.

4. CAN was formally organized in 1928 under the auspices of the NAS and NRC to provide advice to Federal agencies and the nation on the nutritional management of important domestic animals.

5. Reports produced by CAN have been widely used and accepted by Federal agencies, the biomedical community, the U.S. animal industry and abroad as a group of unbiased and comprehensive reports that form the basis of nutrient recommendations for animals in the United States and many parts of the world.

6. Reports of CAN have been translated into at least five other

languages (Spanish, Russian, Chinese, Japanese, and Turkish) and are used as a standard for animal nutrition throughout the world.

II. Funding

We anticipate that approximately $20,000 will be made available to fund this project. It is expected that the award will begin in either fiscal year (FY) 2000 or FY 2001 and will be made for a 12-month budget period within a project period of up to 3 years. Funding estimates may change. Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Dated: September 28, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–25449 Filed 10–3–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1519]

Clinical Pharmacology During Pregnancy; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing an FDA/National Institute for Child Health and Human Development co-sponsored meeting on ''Clinical Pharmacology During Pregnancy: Addressing Clinical Needs Through Science.'' Experts from industry, academia, and the public have been invited to provide their perspectives on drug therapeutics during the second and third trimester of pregnancy. The goals of the meeting are: To summarize the state of knowledge regarding clinical pharmacology in pregnancy; to raise awareness among clinician researchers and leaders about the need for clinical research and collaboration in this area; and to garner support for such research from health advocacy groups and others.

DATES: The meeting will be held on Monday and Tuesday, December 4 and 5, 2000, from 8 a.m. to 5 p.m. The deadline for registration is November 13, 2000.

ADDRESSES: The location of the meeting is the Holiday Inn, Capitol room, 550 C St. SW., Washington, DC 20024, 202–479–4000. Transcripts of the meeting will be available from the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and on the Internet at http://www.fda.gov/ohrms/dockets. Register on the Internet at http://www.fda.gov/cder/audiences/women/pharmpreg2000.htm.

FOR FURTHER INFORMATION CONTACT: Dianne L. Kennedy, Center for Drug Evaluation and Research (HFD–104), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 301–827–2185, e-mail: kennedyd@cder.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Most women and physicians seek to avoid the use of medications during pregnancy to protect the developing fetus from any potential adverse effects. However, medication use by pregnant women is common. A study conducted in 1994 by FDA, using several managed care data bases, found that the average number of prescriptions per patient during pregnancy (excluding prenatal vitamins, iron preparations, and medications at the time of delivery) was three. The number of prescriptions increased with maternal age. For pregnant women over the age of 35, the average number of prescriptions was five (unpublished data, FDA).

In considering the needs for clinical pharmacology data to guide drug dosing among special populations, the pregnant woman is rarely addressed. Yet, the physiology of pregnancy is dynamic and capable of influencing the pharmacokinetic profiles of many drugs. It is commonly appreciated that hormonal changes, particularly elevated estrogens and progesterone, accompany normal pregnancy, but their effects are often unappreciated.

Many women enter pregnancy with health conditions that require medications, such as neurologic and psychiatric conditions. Some health conditions tend to worsen during pregnancy, including hypertension, asthma, endocrinopathies, rheumatologic diseases, and cardiac conditions. Previously healthy women often develop illnesses during pregnancy, such as infections, diabetes, thyroid disease, thromboembolism, or cancers. Often, not using medications poses far greater risk to fetal well being and survival than the risk of a particular drug.

Most physicians seek to prescribe the lowest effective dose of any given drug to treat a pregnant woman. Their goal is to provide the best effect for the least exposure possible to the fetus. However, when deciding what the appropriate dose is for a given patient, health care practitioners usually rely on information (typically from product circulars) from studies of individuals who are not pregnant. Particularly for drugs with a narrow therapeutic window, or with marginal efficacy at the lower end of the therapeutic spectrum, this practice risks exposing the fetus to a dose of medication with little or no benefit to the mother. The result may be that the mother's condition worsens. She may require a second course of the same treatment or a switch to a second or third drug, exposing her developing infant to multiple courses of treatment over a much longer period of time.

Pregnant women are usually excluded from clinical trials and even in situations where pregnant women require therapeutics, pharmacokinetic studies are rarely done. There are many reasons for this. Pregnancy is a temporary condition and easily forgotten in ''wish lists'' for data, by subspecialists who treat pregnant women with serious medical problems. Also, interested investigators may be reluctant to pursue pharmacokinetic studies in pregnant women because of their lack of knowledge related to pregnancy or fetal development. Finally, where information does exist in the medical literature about pharmacokinetics of individual drugs in pregnancy, the data have rarely appeared in product labels, creating further disincentives for conducting such clinical research. This latter reality has its own set of probable causes, but may change as FDA enhances requirements for product safety updates based on scientific literature and human experience data. Regardless of the root causes for the current paucity of information, rational prescribing for the pregnant patient must attempt to ensure that she will have the greatest likelihood of clinical benefit from a medication in exchange for the safest or least exposure of her developing baby. This can only be achieved when adequate pharmacokinetic dosing data are available.

The agency hopes this meeting will help summarize the state of knowledge on clinical pharmacology in pregnancy, raise awareness among clinician researchers and leaders about the need for clinical research and collaboration in this area, and garner support for such research from health advocacy groups and others.

II. Registration

There is no registration fee, however preregistration is required. Register early, as space is limited. The meeting room will hold approximately 250 people. Registration will begin with the publication of this notice. If you will need special accommodations due to a disability to attend the meeting, please inform the contact person listed above. You may obtain information and register on the Internet at http://www.fda.gov/cder/audiences/women/pharmpreg2000.htm.

Dated: September 25, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–25386 Filed 10–3–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing, Department of Health and Human Services (HHS), Administration (HCFA).

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, ''Record of Individuals Allowed Regular and Special Parking Privileges at the HCFA Building (PRKG), HHS/HCFA/OICS, System No. 09–70–3004.'' PRKG will be used as part of our building security plan. All Federal employees will be issued parking permits by HCFA to provide regular or special parking based on specific needs.

The primary purpose of the system of records is to issue parking permits for the HCFA complex at 7500 Security Boulevard, Baltimore, Maryland. Information retrieved from this system of records will also be used to support regulatory and policy activities performed within the agency or by a contractor or consultant; support constituent requests made to a Congressional representative; and to support litigation involving the agency related to this system of records. We have provided background information about the proposed system in the ''Supplementary Information'' section below. Although the Privacy Act requires only that HCFA provide an opportunity for interested persons to comment on the proposed routine uses, HCFA invites comments on all portions of this notice. See ''Effective Dates'' section for comment period.

EFFECTIVE DATES: HCFA filed a new system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on September 20, 2000. To ensure that all parties have adequate time in which to comment, the new system of records, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the Congress, whichever is later, unless HCFA receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution (DDLD), HCFA, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT: Ms. Kris Zaruba, Division of Facilities Management Services, Administrative Services Group, Office of Internal Customer Support, HCFA, 7500 Security Boulevard, SLL–11–08, Baltimore, Maryland 21244–1850. The telephone number is 410–786–0837.

SUPPLEMENTARY INFORMATION:

I. Description of the New System of Records

Statutory and Regulatory Basis for System of Records

HCFA proposes a new system of records collecting data under the authority of 5 U.S.C. 301.

II. Collection and Maintenance of Data in the System.

A. Scope of the Data Collected

The collected information on all HCFA employees and non-HCFA employees who require parking privileges at HCFA buildings, will contain name, social security number, parking permit number, telephone number, work location, position, title and grade, supervisor's name and telephone number and background information relating to medical or specific parking needs.

B. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits disclosure of information without an individual's consent if the information is to be used for a purpose, which is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The government will only release PRKG information as provided for under ''Section III. Entities Who May Receive Disclosures Under Routine Use.''

We will only disclose the minimum personal data necessary to achieve the purpose of PRKG. HCFA has the following policies and procedures concerning disclosures of information, which will be maintained in the system. In general, disclosure of information from the system of records will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after HCFA:

(a) Determines that the use or disclosure is consistent with the reason data is being collected; e.g., implements the regulations and directives that established that Federal workers and other authorized personnel will be issued parking permits for the HCFA complex.

(b) Determines:

(1) That the purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

(2) That the purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

(3) That there is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

(c) Requires the information recipient to:

(1) Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

(2) Remove or destroy at the earliest time all individually-identifiable information; and

(3) Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

(d) Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

Entities Who May Receive Disclosures Under Routine Use

The routine use disclosures in this system may occur only to the following

three (3) categories of entities (i.e., the entities, which can get identifiable data only if we apply the policies and procedures in Section II.B. above). Disclosures may be made:

1. To agency contractors, or consultants who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity.

We contemplate disclosing information under this routine use only in situations in which HCFA may enter into a contract or similar agreement with a third party to assist in accomplishing HCFA activities relating to purposes for this system of records.

HCFA occasionally contracts out certain of its activities when this would contribute to effective and efficient operations. HCFA must be able to give a contractor or consultant whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or consultant from using or disclosing the information for any purpose other than that described in the contract and to return or destroy all information at the completion of the contract.

2. To a member of Congress or to a Congressional staff member in response to an inquiry of the Congressional Office made at the written request of the constituent about whom the record is maintained.

Constituents may request the help of a Member of Congress in resolving some issue relating to a matter before HCFA. The Member of Congress then writes HCFA, and HCFA must be able to give sufficient information to be responsive to the inquiry.

3. To the Department of Justice (DOJ), court or adjudicatory body when:

(a) The agency or any component thereof, or

(b) Any employee of the agency in his or her official capacity, or

(c) Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

(d) The United States Government is a party to litigation or has an interest in such litigation, and by careful review, HCFA determines that the records are both relevant and necessary to the litigation.

Whenever HCFA is involved in litigation, or occasionally when another party is involved in litigation and HCFA's policies or operations could be affected by the outcome of the litigation, HCFA would be able to disclose information to the DOJ, court or adjudicatory body involved. A determination would be made in each instance that, under the circumstances involved, the records are both relevant and necessary to the litigation.

IV. Safeguards

A. Authorized Users

Personnel having access to the system have been trained in Privacy Act requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data. Records are used in a designated work area or workstation and the system location is attended at all times during working hours.

To ensure security of the data, the proper level of class user is assigned for each individual user. This prevents unauthorized users from accessing and modifying critical data. The system database configuration includes five classes of database users:

- *Database Administrator* class owns the database objects; e.g., tables, triggers, indexes, stored procedures, packages, and has database administration privileges to these objects;
- *Quality Control Administrator* class has read and write access to key fields in the database;
- *Quality Indicator Report Generator* class has read-only access to all fields and tables;
- *Policy Research* class has query access to tables, but are not allowed to access confidential patient identification information; and
- *Submitter* class has read and write access to database objects, but no database administration privileges.

B. Physical Safeguards

All server sites have implemented the following minimum requirements to assist in reducing the exposure of computer equipment and thus achieve an optimum level of protection and security for the PRKG system:

Access to all servers is controlled, with access limited to only those support personnel with a demonstrated need for access. Servers are to be kept in a locked room accessible only by specified management and system support personnel. Each server requires a specific log-on process. All entrance doors are identified and marked. A log is kept of all personnel who were issued a security card, key and/or combination, which grants access to the room housing the server, and all visitors are escorted while in this room. All servers are housed in an area where appropriate environmental security controls are implemented, which include measures implemented to mitigate damage to Automated Information System (AIS) resources caused by fire, electricity, water and inadequate climate controls.

Protection applied to the workstations, servers and databases include:

- *User Log-on*—Authentication is performed by the Primary Domain Controller/Backup Domain Controller of the log-on domain.
- *Workstation Names*—Workstation naming conventions may be defined and implemented at the agency level.
- *Hours of Operation*—May be restricted by Windows NT. When activated all applicable processes will automatically shut down at a specific time and not be permitted to resume until the predetermined time. The appropriate hours of operation are determined and implemented at the agency level.
- *Inactivity Log-out*—Access to the NT workstation is automatically logged out after a specified period of inactivity.
- *Warnings*—Legal notices and security warnings display on all servers and workstations.
- *Remote Access Services (RAS)*—Windows NT RAS security handles resource access control. Access to NT resources is controlled for remote users in the same manner as local users, by utilizing Windows NT file and sharing permissions. Dial-in access can be granted or restricted on a user-by-user basis through the Windows NT RAS administration tool.

There are several levels of security found in the PRKG system. Windows NT provides much of the overall system security. The Windows NT security model is designed to meet the C2-level criteria as defined by the U.S. Department of Defense's Trusted Computer System Evaluation Criteria document (DoD 5200.28–STD, December 1985). Netscape Enterprise Server is the security mechanism for all PRKG transmission connections to the system. As a result, Netscape controls all PRKG information access requests. Anti-virus software is applied at both the workstation and NT server levels.

Access to different areas on the Windows NT server are maintained through the use of file, directory and share level permissions. These different levels of access control provide security that is managed at the user and group level within the NT domain. The file and directory level access controls rely on the presence of an NT File System

(NTFS) hard drive partition. This provides the most robust security and is tied directly to the file system. Windows NT security is applied at both the workstation and NT server levels.

C. Procedural Safeguards

All automated systems must comply with Federal laws, guidance, and policies for information systems security. These include, but are not limited to: the Privacy Act of 1974; the Computer Security Act of 1987; OMB Circular A–130, revised; HHS, Information Resource Management (IRM) Circular #10; HHS Automated Information Systems Security Program; the HCFA Information Systems Security Policy and Program Handbook; and other HCFA systems security policies. Each automated information system should ensure a level of security commensurate with the level of sensitivity of the data, risk, and magnitude of the harm that may result from the loss, misuse, disclosure, or modification of the information contained in the system.

V. Effect of the Proposed System of Records on Individual Rights

HCFA proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

HCFA will monitor the collection and reporting of PRKG data. HCFA will take precautionary measures (see item IV. above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights. HCFA will collect only that information necessary to perform the system's activities. In addition, HCFA will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act.

HCFA, therefore, does not anticipate an unfavorable effect on individual privacy as a result of maintaining this system.

Dated: September 18, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

09–70–3004

SYSTEM NAME:

Record of Individuals Allowed Regular and Special Parking Privileges at the Health Care Financing Administration (HCFA) Building (PRKG), HHS/HCFA/OICS.

SECURITY CLASSIFICATION:

Level Three, Privacy Act Sensitive Data

SYSTEM LOCATION:

HCFA Data Center, 7500 Security Boulevard, North Building, and the Office of Internal Customer Support, South Building, Lower Level, Baltimore, Maryland 21244–1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Federal employees who require parking privileges at HCFA buildings.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the collected information on all Federal employees at HCFA buildings, i.e., name, social security number, parking permit number, telephone number, work location, position, title and grade, supervisor's name and telephone number and background information relating to medical or specific parking needs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE (S) OF THE SYSTEM:

The primary purpose of the system of records is to issue parking permits for the HCFA complex at 7500 Security Boulevard, Baltimore, Maryland. Information retrieved from this system of records will also be used to support regulatory and policy activities performed within the agency or by a contractor or consultant; support constituent requests made to a Congressional representative; and to support litigation involving the agency related to this system of records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

The Privacy Act permits disclosure of information without an individual's consent if the information is to be used for a purpose, which is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use''. We are proposing to disclose information from this system of records under the following routine uses. These routine uses are discussed in detail in the attached Preamble.

1. To agency contractors, or consultants who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity.

2. To a member of Congress or to a Congressional staff member in response to an inquiry of the Congressional Office made at the written request of the constituent about whom the record is maintained.

3. To the Department of Justice (DOJ), court or adjudicatory body when:

(a) The agency or any component thereof, or

(b) Any employee of the agency in his or her official capacity, or

(c) Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

(d) The United States Government is a party to litigation or has an interest in such litigation, and by careful review, HCFA determines that the records are both relevant and necessary to the litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained on paper, computer diskette and on magnetic storage media.

RETRIEVABILITY:

Name and parking permit identification number are used to retrieve the records.

SAFEGUARDS:

HCFA has safeguards for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data.

In addition, HCFA has physical safeguards in place to reduce the exposure of computer equipment and thus achieve an optimum level of protection and security for the PRKG system. For computerized records,

safeguards have been established in accordance with HHS standards and National Institute of Standards and Technology guidelines; e.g., security codes will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management (IRM) Circular #10, Automated Information Systems Security Program; HCFA Automated Information Systems (AIS) Guide, Systems Securities Policies; and OMB Circular No. A–130 (revised), Appendix III.

RETENTION AND DISPOSAL:

All records are destroyed one year after parking privileges are terminated.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Facilities Management Services, Administrative Services Group, Office of Internal Customer Support, HCFA, 7500 Security Boulevard, Baltimore, Maryland, 21244–1850.

NOTIFICATION PROCEDURE:

For purposes of access, the subject individual should write to the system manager who will require the system name, parking permit number, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), address, date of birth, sex, and social security number (SSN) (furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay).

RECORD ACCESS PROCEDURE:

For purposes of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

Sources of information contained in this records system are received from the individual requesting parking privileges on HCFA Form 182 04/99.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 00–25450 Filed 10–3–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Meeting of Advisory Committee to the Interagency Task Force To Improve Hydroelectric Licensing Processes

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: This notice informs the public of final meeting of the Advisory Committee to the Interagency Task Force to Improve Hydroelectric Licensing Processes on October 17, 2000, at the Department of Energy. Interested members of the public can attend the meeting.

DATES: October 17, 2000; 9:30 a.m.–3 p.m.

ADDRESSES: Program Review Center, Room 8E–089; United States Department of Energy, 1000 Independence Ave. NW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Larry Mansueti, Office of Power Technologies, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, (202) 586–2588.

SUPPLEMENTARY INFORMATION: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Advisory Committee to the Interagency Task Force to Improve Hydroelectric Licensing Processes will meet for the final time on October 17, 2000, at the Department of Energy. The purpose of the meeting is to:

(1) Update Committee members on the current activities of the Interagency Task Force (ITF);

(2) Review and discuss the Interagency Task Force Working Groups' products on: (i) Endangered Species Act; (ii) Federal Power Act; and (iii) Adaptive Management; and

(3) Provide a retrospective and review of the entire body of work of the advisory committee.

The Secretary of the Interior and the Chairman, Federal Energy Regulatory Commission, with the concurrence of ITF members, established the Advisory Committee to provide a forum for non-Federal entities to review and provide comments on the deliberations of the ITF. Interested parties are invited to attend the meeting and will be given an opportunity to provide comments.

You should inform Security at the visitors desk that you are attending a meeting hosted by the Office of Biopower and Hydropower Technologies at (202) 586–5188 or (202) 586–9275. After calling either of these numbers to approve your admittance, Security will issue you a visitor's pass and direct you to the Program Review Center, Room 8E089.

Tom Iseman,

Special Assistant to the Designated Federal Officer.

[FR Doc. 00–25483 Filed 10–3–00; 8:45 am]

BILLING CODE 4310–RK–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Barbara Dicely, dba Leopards, Etc., Occidental, CA, PRT–033596.

The applicant requests a permit to import a male cheetah cub (*Acinonyx jubatus*) from DeWildt Cheetah and Wildlife Centre, South Africa, for the purpose of enhancement of the survival of the species through conservation education.

Applicant: Thomas W. Avara, II Houston, TX PRT–034115.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Dannine Avara, Houston, TX PRT–034122.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following application for a permit to conduct certain activities with marine

mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: Gloria Erickson, Holdrege, NE, PRT–033948.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound, polar bear population, Canada for personal use.

Applicant: Robert Miller, North East, PA, PRT–034022.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the McClintock Channel, polar bear population, Canada for personal use.

Applicant: Chicago Zoological Society, Brookfield, IL, PRT–032510.

The applicant requests a permit to import 1.0 live captive born polar bear (*Ursus maritimus*) from the Jardin Zoo, Quebec, Canada, for the purpose of public display and conservation education.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The U.S. Fish and Wildlife has information collection approval from OMB through February 28, 2001. OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: September 28, 2000.

Charlie Chandler,

Chief, Branch of Permits, Division of Management Authority.

[FR Doc. 00–25444 Filed 10–3–00; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Initial Meeting of the Alaska Migratory Bird Co-management Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Alaska Migratory Bird Co-management Council has scheduled its first meeting to begin the process of recommending regulations for the spring/summer migratory bird subsistence harvest for the period beginning March 10, 2002. At this meeting the Co-management Council will approve its by-laws, finalize an operations manual for Council members, elect officers, review resource information presented by staff of the Alaska Department of Fish and Game and the U.S. Fish and Wildlife Service, and establish regulations frameworks for seven geographic regions.

DATES: The Co-management Council will meet October 30–November 1, 2000.

ADDRESSES: The meeting will be conducted at the Hawthorn Suites Hotel at 1110 W. 8th Avenue in Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: For additional information call Mimi Hogan at 907/786–3673 or Bob Stevens at 907/786–3499. Individuals with a disability who may need special accommodations in order to participate in the public comment portion of the meeting should call one of the above numbers.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service formed the Alaska Migratory Bird Co-Management Council, which includes Native, State, and Federal representatives as equals, by means of a Notice of Decision published in the **Federal Register**, 65 FR 16405–16409, March 28, 2000. Amended migratory bird treaties with Canada and Mexico required the formation of such a management body. The Co-management Council will make recommendations for, among other things, regulations for spring/summer harvesting of migratory birds in Alaska. In addition to creation of the Co-managment Council, the Notice of Decision identified seven geographic regions. Each region will submit to the Co-management Council requests for specific regulations for its area. The Co-management Council will then develop recommendations for statewide regulations and submit them to the Fish and Wildlife Service for approval.

The initial meeting of the Co-management Council will begin on Monday, October 30 at 1 p.m. Sessions on October 31 and November 1 will begin at 8:00 a.m. The public is invited to attend. The Co-management Council will provide opportunities for public comment on agenda items. Agendas will be available at the door.

Dated: September 20, 2000.

David B. Allen,

Regional Director, Anchorage, Alaska.

[FR Doc. 00–25402 Filed 10–3–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–932–1320–05; NMNM 99144]

Notice of Coal Lease Offering

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of competitive coal lease sale.

SUMMARY: Notice is hereby given that certain coal resources in the tract described below in San Juan County, New Mexico, will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*).

DATES: The lease sale will be held at 10:00 a.m., Wednesday, November 1, 2000. Sealed bids must be submitted on or before 9 a.m., on November 1, 2000.

ADDRESSES: The lease sale will be held in the BLM Conference Room, located at 1474 Rodeo Road, Santa Fe, NM 87505. Sealed bids must be submitted on or before 9 a.m. on November 1, 2000, to: Cashier, New Mexico State Office, P.O. Box 27115, Santa Fe, NM 87502–0115.

FOR FURTHER INFORMATION CONTACT: Ida T. Viarreal at (505) 438–7603.

SUPPLEMENTARY INFORMATION: The tract will be leased to the qualified bidder submitting the highest cash offer provided that the high bid meets or exceeds the fair market value of the tract as determined by the Authorized Officer after the sale. Each bid should be clearly identified by tract number or serial number on the outside of the envelope containing the bid. No bid that is less than $100.00 per acre, or fraction thereof, will be considered.

This $100.00 per acre is a regulatory minimum, and is not intended to reflect fair market value of the tract. Sealed bids clearly marked ''Sealed Bid for NMNM 99144 Coal Sale—Not to be opened before 10 a.m. Wednesday, November 1, 2000,'' must be received on or before 9 a.m., Wednesday, November 1, 2000. Bids should be sent by certified

mail, return receipt requested, or should be hand delivered. The cashier will issue a receipt for each hand delivered sealed bid. Bids received after 9 a.m., on November 1, 2000, will not be considered. The fair market value of the tract will be determined by the Authorized Officer after the sale. If identical high sealed bids are received, the tying bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed bids must be within 15 minutes following the sale official's announcement at the sale that identical sealed bids have been received.

Coal Tract to be Offered: The coal resources to be offered consist of all recoverable reserves in the following described lands located in San Juan County, New Mexico and are described as follows:

T.30 N., R. 14 W., NMPM
Sec. 17, All;
Sec. 18, All;
Sec. 19, All;
Sec. 20, All;
Sec. 29, All;
Sec. 30, All;
Sec. 31, Lots 1–4, N½,N½S½.

Containing 4,483.88 acres, more or less.

The tract that is being offered for lease is comprised of seven sections of Bureau of Land Management Lands. The tract is subject to several prior valid and pre-existing surface and subsurface rights. These include, but are not limited to: (1) rights-of-way issued for large fluid transmission pipelines, electrical power transmission lines, water lines, roads, and other utilities, (2) surface grazing and water rights, (3) subsurface leases for oil and gas, which include all of the coal bed methane gas within the Fruitland coal, and associated oil and gas lease surface rights for storage, gathering lines, access roads, drilling pads, etc., and (4) existing producing and non-producing oil, gas and coal bed methane wells on the aforementioned leases. It shall be the responsibility of the successful coal bidder to determine just how any and all of the pre-existing rights will affect the mining operations. A list of the pre-existing surface and subsurface encumbrances by serial number and type that are currently a matter of public record can be obtained at the BLM New Mexico State Office.

The right to mine and remove coal from the tract is a subordinate right to any and all prior valid and pre-existing rights. If during any of the operations related to the mining of the coal it becomes necessary to infringe upon the prior rights, then any and all actions, and negotiations allowing adjustments, relinquishments, suspensions, etc., and the costs and compensations related thereto, shall be the sole responsibility of the successful coal bidder. Any conflicts between the successful bidder and the holders of oil and gas leases must be cleared by negotiations between the successful bidder and said oil and gas lesses(s). The Bureau of Land Management will not be a party to or have any involvement in any negotiations between any parties in regards to this tract.

Rental and Royalty: The lease issued as a result of this lease offering will require payment of an annual rental of $3.00 per acre or a fraction thereof, and a royalty payable to the United States of 12½ percent of the value of the coal removed by surface methods and 8 percent of the value of the coal removed by underground methods. The value of the coal will be determined in accordance with 30 CFR § 206.250.

Notice of Availability: Bidding instructions for the offered tract is included in the Detailed Statement of Coal Lease Sale. Copies of the Statement and the proposed coal lease are available upon request in person or by mail from the BLM New Mexico State Office at the addresses shown above. The case files are available for inspection during normal business hours only at the Santa Fe, New Mexico location.

Dated: September 27, 2000.

Carsten F. Goff,

Acting State Director.

[FR Doc. 00–25326 Filed 10–3–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Realty Action, Recreation and Public Purposes (R&PP) Act Classification

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Realty Action, Recreation and Public Purposes (R&PP) Act Classification, UTU–78912.

SUMMARY: The following public land in Garfield County, Utah has been examined and found suitable for classification for conveyance under the provisions of the R&PP Amendment Act of 1988 (Pub. L. 100–648): Salt Lake Meridian, Utah, T. 35 South, R. 5 West, Section 5, S½SW¼SE¼, S½SE¼SW¼, and Section 9, N½NW¼NW¼, N½NE¼NW¼ containing 80 Acres. Garfield County intends to use the land for a public shooting range. The land is not needed for a Federal purpose. Conveyance is consistent with current Bureau of Land Management land use planning and would be in the public interest.

DATES: On or before November 20, 2000, interested parties may submit comments regarding the proposed classification. In the absence of adverse comments, the classification will become effective December 4, 2000.

ADDRESSES: For further information, contact the Field Manager, Kanab Field Office, Bureau of Land Management, 318 North 100 East, Kanab, Utah 84741, 435–644–4600. Comments should be submitted to the same address.

SUPPLEMENTARY INFORMATION: The patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the R&PP Act and to all applicable regulations of the Secretary of the Interior.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

3. A right-of-way for ditches and canals constructed by authority of the United States (Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945).

4. Those rights for power transmission line purposes granted by right-of-way # SL 052370.

5. All other valid existing rights.

6. The (patentee), its successors or assigns, assumes all liability for and shall defend, indemnify, and save harmless the United States and its officers, agents, representatives, and employees (hereinafter referred to in this clause as the United States), from all claims, loss, damage, actions, causes of action, expense, and liability (hereinafter referred to in this clause as claims) resulting from, brought for, or on account of, any personal injury, threat of personal injury, or property damage received or sustained by any person or persons (including the patentee's employees) or property growing out of, occurring, or attributable directly or indirectly, to the disposal of solid waste on, or the release of hazardous substances from the above described public land, regardless of whether such claims shall be attributable to: (1) the concurrent, contributory, or partial fault, failure, or negligence of the United States, or (2) the sole fault, failure, or negligence of the United States.

7. Title shall revert to the United States upon a finding, after notice and opportunity for a hearing, that the patentee has not substantially developed the lands in accordance with the approved plan of development on or

before the date five years after the date of conveyance. No portion of the land shall under any circumstance revert to the United States if any such portion has been used for solid waste disposal or for any other purpose which may result in the disposal, placement, or release of any hazardous substance.

8. If, at any time, the patentee transfers to another party ownership of any portion of the land not used for the purpose(s) specified in the application and approved plan of development, the patentee shall pay the Bureau of Land Management the fair market value, as determined by the authorized officer, of the transferred portion as of the date of transfer, including the value of any improvements thereon.

Upon publication of this notice in the **Federal Register** the lands will be segregated from all forms of appropriation under public land laws, including the general mining laws, except for conveyance under the R&PP Act and leasing under the Mineral leasing laws.

Dated: September 26, 2000.

A. Jerry Meredith,

District Manager.

[FR Doc. 00–25431 Filed 10–3–00; 8:45 am]

BILLING CODE 4310–$$–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Haffenreffer Museum of Anthropology, Brown University, Bristol, RI

AGENCY: National Park Service, Interior.

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Haffenreffer Museum of Anthropology, Brown University, Bristol, RI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Haffenreffer Museum professional staff in consultation with representatives of the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head, the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group); the Narragansett Indian Tribe of Rhode Island; and the Council of Seven/Royal House of Pokanoket/Pokanoket Tribe/ Wampanoag Nation (a non-Federally recognized Indian group).

In 1913, human remains representing one individual were excavated at Burr's Hill in Warren, RI. During the 1920's, Rudolf Haffenreffer acquired these remains as part of the Drown collection. No known individual was identified. The seven associated funerary objects are five small brass kettle fragments and two wool blanket fragments.

Burr's Hill is believed to be located on the southern border of Sowams, a Wampanoag village. Sowams is identified in historic documents of the 17th and 18th centuries as a Wampanoag village, and was ceded to the English in 1653 by Massasoit and his eldest son Wamsutta (Alexander). Sporadic finds and excavations have been made at this site from the middle of the 19th century through the early 20th century. Based the presence of European trade goods and types of cultural items, these cultural items have been dated to between A.D. 1600–1710.

Based on the above-mentioned information, officials of the Haffenreffer Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Haffenreffer Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (d)(2), the seven objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Haffenreffer Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head, the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group). This notice has been sent to officials of the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head, the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group); the Narragansett Indian Tribe of Rhode Island; and the Council of Seven/Royal House of Pokanoket/Pokanoket Tribe/ Wampanoag Nation (a non-Federally recognized Indian group). Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Thierry Gentis, NAGPRA Coordinator, Haffenreffer Museum of Anthropology, Mount Hope Grant, Bristol, RI 02805, telephone (401) 253–8388, facsimile (401) 253–1198, before November 3, 2000. Repatriation of the human remains and associated funerary objects to the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head, the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group) may begin after that date if no additional claimants come forward.

Dated: September 21, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–25398 Filed 10–03–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of the New Mexico State Office, Bureau of Land Management, Santa Fe, NM

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the control of the New Mexico State Office, Bureau of Land Management, Santa Fe, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this

notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the University of Colorado Museum, Eastern New Mexico University, the Maxwell Museum of Anthropology (University of New Mexico), the New Mexico State University Museum, the Museum of New Mexico, the San Juan County Museum, and Bureau of Land Management professional staff in consultation with representatives of the Hopi Tribe, the Navajo Nation, the Pueblo of Acoma, the Pueblo of Jemez, the Pueblo of Isleta, the Pueblo of San Ildefonso, the Pueblo of Zia, and the Zuni Tribe of the Zuni Reservation.

In 1981, human remains representing eight individuals were recovered from site LA 282 in New Mexico during legally authorized excavations and collections conducted by the Archeological Field School of the University of New Mexico. These human remains are presently curated at the Maxwell Museum of Anthropology, University of New Mexico. No known individuals are identified. The 11 associated funerary objects are pottery bowls and sherds.

Based on material culture, architecture, and site organization, site LA 282 has been identified as an Anasazi pueblo occupied between A.D.1300–1600.

Continuities of ethnographic materials, technology, and architecture indicate affiliation of Anasazi sites in this area of New Mexico with historic and present-day Puebloan cultures. Oral tradition presented by representatives of the Pueblo of Isleta indicate cultural affiliation with the Anasazi sites in this portion of New Mexico.

Based on the above-mentioned information, officials of the New Mexico State Office of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of eight individuals of Native American ancestry. Officials of the New Mexico State Office of the Bureau of Land Management also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 11 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the New Mexico State Office of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Pueblo of Isleta and the Pueblo of Ysleta del Sur. This notice has been sent to officials of the Hopi Tribe, the Navajo Nation, the Pueblo of Acoma, the Pueblo of Jemez, the Pueblo of Isleta, the Pueblo of San Ildefonso, the Pueblo of Zia, and the Zuni Tribe of the Zuni Reservation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Stephen L. Fosberg, State Archeologist and NAGPRA Coordinator, New Mexico State Office, Bureau of Land Management, 1474 Rodeo Road, Santa Fe, NM 87502–0115, telephone (505) 438–7415, before November 3, 2000. Repatriation of the human remains and associated funerary objects to the Pueblo of Isleta and the Pueblo of Ysleta del Sur may begin after that date if no additional claimants come forward.

Dated: September 26, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–25399 Filed 10–3–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Colorado River Basin Salinity Control Advisory Council

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Colorado River Basin Salinity Control Advisory Council (Council) was established by the Colorado River Basin Salinity Control Act of 1974 (P.L. 93–320) (Act) to receive reports and advise federal agencies on implementing the Act. In accordance with the Federal Advisory Committee Act, the Bureau of Reclamation announces that the Council will meet as detailed below.

DATES AND LOCATION: The Advisory Council will conduct its annual meeting at the following time and location:

Henderson, Nevada—October 26, 2000. The meeting will begin at 8 a.m. and recess at 12 noon and reconvene briefly the following day at about 1 p.m. The meeting will be held in the Sierra Room of the Henderson Convention Center at 200 Water Street in Henderson, Nevada.

Agenda: The purpose of the meeting will be to discuss the accomplishments of federal agencies and make recommendations on future activities to control salinity. Council members will be briefed on the status of salinity control activities and receive input for drafting the Council's annual report. The Department of the Interior, the Department of Agriculture, and the Environmental Protection Agency will each present a progress report and a schedule of activities on salinity control in the Colorado River Basin. The Council will discuss salinity control activities and the content of their report.

The meeting of the Council is open to the public. Any member of the public may file written statements with the Council before, during, or up to 30 days after the meeting, in person or by mail. To the extent that time permits, the Council chairman may allow public presentation of oral statements at the meeting. To allow full consideration of information by the Advisory Council members, written notice must be provided to David Trueman, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102; telephone (801) 524–3753; faxogram (801) 524–5499; E-mail at: *dtrueman@uc.usbr.gov* at least FIVE (5) days prior to the meeting. Any written comments received will be provided to the Advisory Council members at the meeting.

FOR FURTHER INFORMATION CONTACT: David Trueman, telephone (801) 524–3753; faxogram (801) 524–5499; E-mail at: *dtrueman@uc.usbr.gov.*

Dated: September 29, 2000.

Eluid L. Martinez,

Commissioner, Bureau of Reclamation.

[FR Doc. 00–25458 Filed 10–3–00; 8:45 am]

BILLING CODE 4310–10–P

DEPARTMENT OF JUSTICE

Confidentiality in Federal Alternative Dispute Resolution Programs; Evaluation of Federal Alternative Dispute Resolution Programs

AGENCY: Department of Justice/Federal Alternative Dispute Resolution Council.

ACTION: Notice.

SUMMARY: This notice solicits public comment on two documents designed to assist Federal agencies in developing alternative dispute resolution (ADR) programs: ''Confidentiality in Federal Alternative Dispute Resolution Programs'' and ''Evaluation of Federal Alternative Dispute Resolution

Programs.'' These documents were created by the Federal ADR Steering Committee, a group of subject matter experts from federal agencies with active ADR programs. They were approved for publication in draft form by the Federal ADR Council, a group of high level government officials chaired by the Attorney General. The first document contains detailed guidance on the nature and limits of confidentiality in Federal ADR programs and also includes a statement on these issues for Federal neutrals to use in ADR proceedings. The second document contains detailed recommendations for agencies to follow when evaluating their ADR programs.

All interested individuals or organizations are invited to submit comments on these documents for the consideration of the Federal ADR Council before they are published in final form at the end of this year.

DATES: All comments must be postmarked by November 1, 2000, in order to receive consideration.

ADDRESSES: Address all comments to Jeffrey M. Senger, Deputy Senior Counsel for Dispute Resolution, United States Department of Justice, 950 Pennsylvania Ave. NW, Room 4328, Washington, D.C., 20530

Dated: September 27, 2000.

Jeffrey M. Senger,

Deputy Senior Counsel for Dispute Resolution, Department of Justice.

SUPPLEMENTARY INFORMATION: In recent years, the government and the private sector increasingly have been using techniques known as alternative dispute resolution (ADR). Our experience has shown that ADR can resolve disputes in a manner that is quicker, cheaper, and less adversarial than traditional processes such as litigation. In ADR, parties meet with each other directly, under the guidance of a neutral professional who is trained and experienced in handling disputes. They talk about the problems that led to the complaint and the resolution that will work best for them in the future. While litigation often silences the parties and severely restricts their control over the outcome of their own dispute, ADR allows them instead to work collaboratively to find creative, effective solutions that are agreeable to all sides.

The Administrative Dispute Resolution Act of 1996 (ADRA), 5 U.S.C. 571–584, requires each Federal agency to promote the use of ADR and calls for the establishment of an interagency committee to assist agencies in the use of ADR. Pursuant to this Act, a Presidential Memorandum dated May 1, 1998, created the Interagency ADR Working Group, chaired by the Attorney General, to ''facilitate, encourage, and provide coordination'' for Federal agencies. In the Memorandum, the President charged the Working Group with assisting agencies with training in ''how to use alternative means of dispute resolution'' and evaluation ''to ascertain the benefits of alternative means of dispute resolution.'' The following two documents are designed to serve these goals.

The first document describes the nature and limits of confidentiality in Federal ADR proceedings. Confidentiality is vital for the success of ADR for several reasons. Parties must be free to engage in candid, informal discussions of their interests in order to reach the best possible settlement of their claims. Guarantees of confidentiality permit parties to speak openly, without fear their statements will be used against them later. Confidentiality also facilitates ADR by encouraging parties to avoid the posturing that often occurs when proceedings are on the record. Further, confidentiality gives parties the ability to trust the mediator because they are assured he or she will not later take sides and talk publicly in favor of one party or the other. At the same time, members of the public have a general right to know what happens in government proceedings and do not want ADR to be used to shield improper activity that involves public business. The ADRA is designed to strike the appropriate balance between the public interest in access to government decision-making and the necessity for certain guarantees of confidentiality in ADR in order for the process to be effective.

Understandably, there has been a great deal of interest in understanding what statements made in the context of a Federal ADR proceeding are confidential and what statements are not. This document is designed to give a detailed explanation of the reasonable expectations of confidentiality for parties who participate in ADR involving the government. The first section of the report reprints the confidentiality provisions of the ADRA. Next, the report contains a section-by-section analysis of these confidentiality provisions. Then the report sets forth, in question-and-answer format, an expanded analysis of the issues likely to arise in practice. Finally, the report presents a model confidentiality statement suitable for use by neutrals in Federal ADR proceedings.

The second document contains detailed guidance for agencies to use when conducting evaluations of their ADR programs. Proponents of ADR have described many benefits from its use, including savings of time and money, increased party satisfaction with the process and its outcome, increased settlement rates, and improved relationships. In order to ensure the growth of ADR programs, these benefits must be rigorously documented and communicated to the public. If evaluations determine problems with ADR programs, these must be remedied. Evaluation is a vital part of any ADR program, and it is consistent with the obligations of all Federal agencies under the Government Performance and Results Act (Pub. L. 103–62).

The first part of this document is a two-page description of general evaluation recommendations for Federal ADR programs. It sets forth specific data that agencies should capture and gives a brief introduction to other important concepts, such as validity, reliability, and presentation of data. The remainder of the report is a twenty-page detailed description of evaluation, including planning and design, methodology, and communicating results. The report concludes with a bibliography of additional resources in this area.

The Federal ADR Council encourages all interested parties to submit comments on these documents. The Council will consider all comments in connection with its review of the final versions of these documents at the end of 2000.

Nothing in these guidance documents shall be construed to create any right or benefit, substantive or procedural, enforceable at law or in equity, by a party against the United States, its agencies, its officers or any other person.

The Federal ADR Council

Chair: Janet Reno, Attorney General, Department of Justice

Vice Chair: Erica Cooper, Deputy General Counsel, Federal Deposit Insurance Corporation

Members: Leigh A. Bradley, General Counsel, Department of Veterans Affairs; Meyer Eisenberg, Deputy General Counsel, Securities and Exchange Commission; Mary Anne Gibbons, General Counsel, U.S. Postal Service; Gary S. Guzy, General Counsel, Environmental Protection Agency; Jeh C. Johnson, General Counsel, Department of the Air Force; Harold Kwalwasser, Deputy General Counsel, Department of Defense; Rosalind Knapp, Acting General Counsel, Department of Transportation; Anthony N. Palladino, Director, Office of Dispute Resolution, Federal Aviation Administration, Department of Transportation; Janet S.

Potts, Counsel to the Secretary, Department of Agriculture; Harriett S. Rabb, General Counsel, Department of Health and Human Services; Henry L. Solano, Solicitor, Department of Labor; John Sparks, Principal Deputy General Counsel, Department of the Navy; Peter R. Steenland, Jr., Senior Counsel for Dispute Resolution, U.S. Department of Justice; Mary Ann Sullivan, General Counsel, Department of Energy; Robert Ward, Dispute Resolution Specialist, Environmental Protection Agency.

Report on the Reasonable Expectations of Confidentiality Under the Administrative Dispute Resolution Act of 1996

Table of Contents

I. Introduction

The Administrative Dispute Resolution Act of 1996 (''ADR Act'') contains provisions that affect the confidentiality of administrative ADR proceedings. Neutrals and participants in federal dispute resolution proceedings need to have an accurate understanding of these provisions. The Federal ADR Council directed the Interagency ADR Working Group Steering Committee to review the ADR Act confidentiality provisions and provide the Council with a report outlining reasonable expectations of confidentiality for parties in federal dispute resolution. This report, the product of that effort, describes the ADR Act confidentiality provisions principally located at 5 U.S.C. Section 574.

The report has four sections: (1) A reprint of the confidentiality provisions of the ADR Act; (2) a section-by-section analysis of the confidentiality provisions; (3) a set of questions and answers designed to expand upon the analysis and address issues likely to arise in practice; and (4) a model confidentiality statement suitable for use by neutrals in federal ADR proceedings.

During preparation of this report, several issues emerged regarding implementation of the ADR Act that are not fully addressed in this report. These issues are important to the practice of federal ADR and would benefit from further investigation and study. As federal sector experience with ADR evolves, some issues addressed in this report will be refined and new issues are likely to arise. It is also important to note that the ADR Act is not the only means of maintaining confidentiality and other laws, regulations, and agency policies may impact confidentiality. A complete analysis of all such authorities is beyond the scope of this report.

II. Administrative Dispute Resolution Act

Definitions (5 U.S.C. 571)

For the purposes of this subchapter, the term—

(1) ''agency'' has the same meaning as in section 551(1) of this title;

(2) ''administrative program'' includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rule making, adjudication, licensing, or investigation, as those terms are used in subchapter II of this chapter;

(3) ''alternative means of dispute resolution'' means any procedure that is used to resolve issues in controversy, including, but not limited to, conciliation, facilitation, mediation, factfinding, minitrials, arbitration, and use of ombuds, or any combination thereof;

(4) ''award'' means any decision by an arbitrator resolving the issues in controversy;

(5) ''dispute resolution communication'' means any oral or written communication prepared for the purposes of a dispute resolution proceeding, including any memoranda, notes or work product of the neutral, parties or nonparty participant; except that a written agreement to enter into a dispute resolution proceeding, or final written agreement or arbitral award reached as a result of a dispute resolution proceeding, is not a dispute resolution communication;

(6) ''dispute resolution proceeding'' means any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specified parties participate;

(7) ''in confidence'' means, with respect to information, that the information is provided—

(A) with the expressed intent of the source that it not be disclosed; or

(B) under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed;

(8) ''issue in controversy'' means an issue which is material to a decision concerning an administrative program of an agency, and with which there is disagreement—

(A) between an agency and persons who would be substantially affected by the decision; or

(B) between persons who would be substantially affected by the decision;

(9) ''neutral'' means an individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy;

(10) ''party'' means—

(A) for a proceeding with named parties, the same as in section 551(3) of this title; and

(B) for a proceeding without named parties, a person who will be significantly affected by the decision in the proceeding and who participates in the proceeding;

(11) ''person'' has the same meaning as in section 551(2) of this title; and

(12) ''roster'' means a list of persons qualified to provide services as neutrals.

Confidentiality (5 U.S.C.574)

(a) Except as provided in subsections (d) and (e), a neutral in a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any dispute resolution communication or any communication provided in confidence to the neutral, unless—

(1) all parties to the dispute resolution proceeding and the neutral consent in writing, and, if the dispute resolution communication was provided by a nonparty participant, that participant also consents in writing;

(2) the dispute resolution communication has already been made public;

(3) the dispute resolution communication is required by statute to be made public, but a neutral should make such communication public only if no other person is reasonably available to disclose the communication; or

(4) a court determines that such testimony or disclosure is necessary to—

(A) prevent a manifest injustice;

(B) help establish a violation of law; or

(C) prevent harm to the public health or safety, of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential.

(b) A party to a dispute resolution proceeding shall not voluntarily disclose or through discovery or

compulsory process be required to disclose any dispute resolution communication, unless—

(1) the communication was prepared by the party seeking disclosure;

(2) all parties to the dispute resolution proceeding consent in writing;

(3) the dispute resolution communication has already been made public;

(4) the dispute resolution communication is required by statute to be made public;

(5) a court determines that such testimony or disclosure is necessary to—

(A) prevent a manifest injustice;

(B) help establish a violation of law; or

(C) prevent harm to the public health and safety, of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential;

(6) the dispute resolution communication is relevant to determining the existence or meaning of an agreement or award that resulted from the dispute resolution proceeding or to the enforcement of such an agreement or award; or

(7) except for dispute resolution communications generated by the neutral, the dispute resolution communication was provided to or was available to all parties to the dispute resolution proceeding.

(c) Any dispute resolution communication that is disclosed in violation of subsection (a) or (b), shall not be admissible in any proceeding relating to the issues in controversy with respect to which the communication was made.

(d)(1) The parties may agree to alternative confidential procedures for disclosures by a neutral. Upon such agreement the parties shall inform the neutral before the commencement of the dispute resolution proceeding of any modifications to the provisions of subsection (a) that will govern the confidentiality of the dispute resolution proceeding. If the parties do not so inform the neutral, subsection (a) shall apply.

(2) To qualify for the exemption established under subsection (j), an alternative confidential procedure under this subsection may not provide for less disclosure than the confidential procedures otherwise provided under this section.

(e) If a demand for disclosure, by way of discovery request or other legal process, is made upon a neutral regarding a dispute resolution communication, the neutral shall make reasonable efforts to notify the parties and any affected nonparty participants of the demand. Any party or affected nonparty participant who receives such notice and within 15 calendar days does not offer to defend a refusal of the neutral to disclose the requested information shall have waived any objection to such disclosure.

(f) Nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable, merely because the evidence was presented in the course of a dispute resolution proceeding.

(g) Subsections (a) and (b) shall have no effect on the information and data that are necessary to document an agreement reached or order issued pursuant to a dispute resolution proceeding.

(h) Subsections (a) and (b) shall not prevent the gathering of information for research or educational purposes, in cooperation with other agencies, governmental entities, or dispute resolution programs, so long as the parties and the specific issues in controversy are not identifiable.

(i) Subsections (a) and (b) shall not prevent use of a dispute resolution communication to resolve a dispute between the neutral in a dispute resolution proceeding and a party to or participant in such proceeding, so long as such dispute resolution communication is disclosed only to the extent necessary to resolve such dispute.

(j) A dispute resolution communication which is between a neutral and a party and which may not be disclosed under this section shall also be exempt from disclosure under section 552(b)(3).

III. Section-by-Section Analysis of Confidentiality Provisions (5 U.S.C. 574)

Section 574(a)

In general, a neutral in a dispute resolution proceeding is prohibited from disclosing any dispute resolution communication or any communication provided to him or her in confidence. Unless the communication falls within one of the exceptions listed below, the neutral cannot voluntarily disclose a communication and cannot be forced to disclose a communication through a discovery request or by any other compulsory process.

The exceptions to this general rule are found in subsections 574(a)(1)–(4), 574(d) and 574(e).

Section 574(a)(1)

A neutral may disclose a communication if all parties *and* the neutral agree in writing to the disclosure. If a nonparty provided the communication, then the nonparty must also agree in writing to the disclosure.

Section 574(a)(2)

A neutral may disclose a communication if the communication has already been made public.

Section 574(a)(3)

A neutral may disclose a communication if there is a statute which requires it to be made public. However, the neutral should not disclose the communication unless there is no other person available to make the disclosure.

Section 574(a)(4)

A neutral may disclose a communication if a court finds that the neutral's testimony, or the disclosure, is necessary to:

A. prevent a manifest injustice;

B. help establish a violation of law; or

C. prevent harm to the public health and safety.

In order to require disclosure, a court must determine that the need for disclosure is of sufficient magnitude to outweigh the detrimental impact on the integrity of dispute resolution proceedings in general. The need for the information must be so great that it outweighs a loss of confidence among other potential parties that their dispute resolution communications will remain confidential in future proceedings.

Section 574(b)

Unless the communication falls within one of the exceptions listed below, the party cannot voluntarily disclose a communication and cannot be forced to disclose a communication through a discovery request or by any other compulsory process.

Section 574(b)(1)

The party who makes a statement or communication is free to disclose it.

Section 574(b)(2)

A party may disclose a communication if all the parties agree in writing to the disclosure.

Section 574(b)(3)

A party may disclose a communication if the communication has already been made public.

Section 574(b)(4)

A party may disclose a communication if there is a statute which requires it to be made public.

Section 574(b)(5)

A party may disclose a communication if a court finds that the party's testimony, or the disclosure, is necessary to:

A. prevent a manifest injustice;

B. help establish a violation of law; or

C. prevent harm to the public health and safety.

In order to require disclosure, a court must determine that the need for disclosure is of sufficient magnitude to outweigh the detrimental impact on the integrity of dispute resolution proceedings in general. The need for the information must be so great that it outweighs a loss of confidence among other potential parties that their dispute resolution communications will remain confidential in future proceedings.

Section 574(b)(6)

(1) Parties may use dispute resolution communications to show that a settlement agreement was in fact reached or to show what the terms of this agreement mean.

(2) Parties may also use communications in connection with later issues regarding enforcing the agreement.

(3) Communications may only be revealed to the extent that they meet the above purposes.

Section 574(b)(7)

(1) There is no confidentiality protection for parties' dispute resolution communications that were available to everyone in the proceeding. For example, in a joint mediation session with all parties present, statements made and documents provided by parties are not confidential.

(2) Communications coming from the neutral are confidential. For example, early neutral evaluations or settlement proposals from the neutral are protected.

(3) A party may not use this provision to gain protection for a communication by providing it to the neutral who then provides it to the other party.

Section 574(c)

No one may use any dispute resolution communication in a related proceeding, if that communication was disclosed in violation of Section 574 (a) and (b).

Section 574(d)(1)

(1) Parties may agree to alternative confidentiality procedures to limit disclosure by a neutral.

(2) Parties must inform the neutral of the alternative procedures before the dispute resolution proceeding begins.

(3) If parties do not inform the neutral of the alternative procedures, the procedures outlined in Section 574(a) will apply.

Section 574(d)(2)

(1) Dispute resolution communications covered by alternative confidentiality procedures may be protected from disclosure under FOIA.

(2) To qualify for this protection, the alternative procedures must provide for as much, or more, disclosure than the procedures provided in Section 574.

(3) Dispute resolution communications covered by alternative confidentiality procedures do not qualify for protection from disclosure under FOIA if they provide for less disclosure than those outlined in Section 574.

Section 574(e)

(1) A neutral who receives a demand for disclosure, in the form of a discovery request or other legal process, must make reasonable efforts to notify the parties and any affected non-party participants of the demand.

(2) Parties and non-party participants who receive a notice of a demand for disclosure from a neutral:

a. must respond within 15 days and offer to defend a refusal to disclose the information; or

b. if they do not respond within 15 days, will have waived their objections to disclosure of the information.

Section 574(f)

Evidence that is otherwise discoverable or admissible is not protected from disclosure under this Section merely because the evidence was presented during a dispute resolution proceeding.

Section 574(g)

The provisions of Section 574 (a) and (b) do not affect information and data that are necessary to document agreements or orders resulting from dispute resolution proceedings.

Section 574(h)

Information from and about dispute resolution proceedings may be used for educational and research purposes as long as the parties and specific issues in controversy are not identifiable.

Section 574(i)

(1) Dispute resolution communications may be used to resolve disputes between the neutral in a dispute resolution proceeding and a party or non-party participant.

(2) Dispute resolution communications may be disclosed only to the extent necessary to resolve a dispute between a neutral and party or non-party participant.

Section 574(j)

A dispute resolution communication between a neutral and a party that is protected from disclosure under this section is also protected from disclosure under FOIA (Section 552(b)).

IV. Questions and Answers on Confidentiality under the Administrative Dispute Resolution Act of 1996 (ADR Act)

General Confidentiality Rules

1. What communications are confidential?

Subject to certain exceptions, the following two types of communications are potentially confidential under the ADR Act:

A. A dispute resolution communication. A dispute resolution communication is any oral or written statement made by a party or a neutral that occurs during a dispute resolution proceeding and any writing prepared specifically for the purposes of a dispute resolution proceeding. Written agreements to enter into a dispute resolution proceeding and any written final agreement reached as a result of the proceeding are not dispute resolution communications. Citation: 5 U.S.C. 571(5).

B. A ''communication provided in confidence to the neutral.'' A ''communication provided in confidence to the neutral'' is any oral statement or document provided to a neutral during a dispute resolution proceeding. The communication must be made: (1) With the express intent that it not be disclosed, or (2) provided under circumstances that would create a reasonable expectation that it not be disclosed. Citation: 5 U.S.C. 571(7) and 574(a).

2. What confidentiality protection is provided for dispute resolution communications?

Generally, neutrals and parties may not voluntarily disclose or be compelled to disclose dispute resolution communications. The ADR Act contains specific exceptions to the general rule. Citation: 5 U.S.C. 574(a), (b).

3. What confidentiality protection applies to a ''communication provided in confidence'' by a party to a neutral?

A neutral may not disclose any communication provided in confidence. Citation: 5 U.S.C. 574(a).

4. What is a dispute resolution proceeding?

A dispute resolution proceeding is any process involving the services of a neutral that is used to resolve an issue in controversy arising from an agency's program, operations, or actions. A dispute resolution proceeding includes any stage of such a dispute resolution process. Citation: 5 U.S.C. 571(6) and (8). See also, Question 10.

5. Who is a Neutral?

A neutral is anyone who functions specifically to aid the parties during a dispute resolution process. A neutral may be a private person or a federal government employee who is acceptable to the parties. There may be more than one neutral during the course of a dispute resolution process (*e.g.*, an ''intake'' neutral, a ''convener'' neutral, as well as the neutral who facilitates a face-to-face proceeding). It is important that agencies clearly identify neutrals to avoid misunderstanding.

The ADR Act supports a broad reading of the term ''neutral.'' An intake or convening neutral is included in this definition as ''an individual who * * * functions specifically to aid the parties in resolving the controversy'' because such neutrals take the necessary first steps toward a potential resolution of a dispute.

In situations where an intake neutral is identified by an agency, a party's willingness to contact and/or work with the intake neutral to initiate an ADR process is an indication that the intake neutral is acceptable to the party. Citation: 5 U.S.C 571(9), 571(6), 571(3), 573(a).

Example: An employee contacts an agency ADR program and describes a dispute to an intake person. The conversation is confidential only if the intake person has been appropriately identified as a neutral by the agency to aid parties in resolving such disputes.

6. Who Is a Party?

A party is any person or entity who participates in a dispute resolution proceeding and is named in a legal proceeding or will be affected significantly by the outcome of the proceeding. The obligations of parties extend to their representatives and agents. Citation: 5 U.S.C. 571(10).

7. What Constitutes Disclosure?

Disclosure is not defined in the ADR Act. Disclosure occurs when a neutral, a party, or a non-party participant makes a communication available to some other person by any method.

8. May a Party or Neutral Disclose Dispute Resolution Communications in Response to Discovery or Compulsory Process?

In general, neither a neutral nor a party can be required to disclose dispute resolution communications through discovery or compulsory process. Compulsory processes include any administrative, judicial or regulatory process that compels action by an individual. (See also Question 15) Citation: 5 U.S.C. 574(a) & 574(b).

9. What Confidentiality Protection Is Provided for Communications by a Nonparty Participant in a Dispute Resolution Proceeding?

A nonparty participant in a dispute resolution proceeding is an individual other than a party, agent or representative of a party, or the neutral. This could be an individual who is asked by the neutral to present information for use of the neutral or parties. A nonparty participant has an independent right to protect his or her communications from disclosure by a neutral. A neutral needs to obtain the consent of all parties and the nonparty participant to disclose such a communication. Citation: 5 U.S.C. 574(a)(1).

10. When in an ADR Process do the Confidentiality Protections of ADR Act Apply?

Confidentiality applies to communications when a person seeking ADR services contacts an appropriate neutral. A communication made by a party to a neutral is covered even if made prior to a face-to-face ADR proceeding. Confidentiality does not apply to communications made after a final written agreement is reached, or after resolution efforts aided by the neutral have otherwise ended. Citation: 5 U.S.C. 571(6), 574(a) and (b).

Exceptions to Confidentiality Protection

11. What Communications Are Not Protected by the ADR Act?

A. A party's own communications made during a dispute resolution proceeding. A party may disclose any oral or written communication which the party makes or prepares for a dispute resolution proceeding. Citation: 5 U.S.C. 574(b)(1).

B. A dispute resolution communication that has ''already been made public.'' The ADR Act's confidentiality protections do not apply to a communication that has already been made public. Examples of communications that have ''already been made public'' include:

1. The communication has been discussed in a Congressional hearing;
2. The communication has been posted on the Internet;
3. The communications has been released to the media;
4. The communication has been placed in a court filing or testified about in a court in a proceeding not under seal;
5. The communication has been reported in the newspapers;
6. The communication has been discussed in an open meeting;
7. The communication has been released under FOIA.

Citation: 5 U.S.C. 574(a)(2) & 574(b)(3).

C. Communications required by statute to be made public. FOIA is an example of a federal statute which requires agency records to be made public under certain circumstances. NOTE: A protected dispute resolution communication which is between a neutral and a party is exempt from disclosure under FOIA. (See Question 23) *Citation: 5 U.S.C. 574(a)(3), 574(b)(4), & 574(j).*

D. When a court orders disclosure. A federal court may override the confidentiality protections of ADR Act in three limited situations. In order to override the confidentiality protections, a court must determine that testimony or disclosure of a communication is necessary to either (1) prevent a manifest injustice, (2) help establish a violation of law, or (3) prevent harm to the public health or safety. The court must also determine that the need for the information is of a sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential. There are no cases as of August 2000 that have interpreted these provisions. *Citation: 5 U.S.C. 574(a)(4) & (b)(5).*

E. In order to resolve a dispute over the existence or meaning of a settlement arrived at through a dispute resolution proceeding. The ADR Act creates an exception to the general rule of nondisclosure for the limited purpose of determining the existence or meaning of an agreement arrived at through a dispute resolution proceeding. Parties may also disclose communications as required to enforce an agreement arrived at through a dispute resolution proceeding. *Citation: 5 U.S.C. 574(b)(6).*

Example: Parties may disclose dispute resolution communications as required to show that a settlement agreement was reached or to show what the terms of this agreement were.

F. Parties' communications in joint session, with all parties present. A neutral may not disclose communications made in joint session. However, there is no prohibition against a party disclosing communications available to everyone in the proceeding. *Citation: 5 U.S.C. 574(b)(7).*

G. Information sought for specific purposes. The ADR Act allows for the disclosure of information for educational and research purposes, in cooperation with agencies, governmental entities, or dispute resolution programs. It is essential that the parties and specific issues in controversy not be identifiable, however. *Citation: 5 U.S.C. 574(h).*

Example: An individual who has served as a neutral in a number of agency ADR proceedings may share collected experiences when participating in a training program provided that the parties and specific issues are not identifiable.

Example: An ADR program administrator may collect statistics to monitor the results of the program.

H. Communications required to resolve disputes that arise between the neutral and a party. If there is a dispute between a neutral and a party regarding the conduct of a dispute resolution proceeding, both may disclose information to the extent necessary to resolve the dispute. Citation: 5 U.S.C. 574(i)

Example: If a party refuses to pay the neutral for services, the neutral can disclose communications to the extent necessary to establish that payment is due.

12. Are a neutral's communications to parties in joint session or provided to all parties confidential?

Yes. ADR Act protects communications by a neutral.

Example: Early neutral evaluations or settlement proposals provided to the parties by a neutral are protected.

Note: A party, however, may not use this provision to gain protection for a communication by providing it to the neutral who then provides it to the other party. The statute says that the communication must be ''generated'' by the neutral, not just passed along by the neutral. Citation: 5 U.S.C. 574 (b)(7). (*See* H. Rept. 104–841,142 Cong. Rec. H11108–11 (September 25, 1996).

13. Can confidentiality attach to communications that are provided to or available to fewer than all of the parties?

Yes. The ADR Act does not prohibit disclosure of dispute resolution communications that are ''provided to or * * * available to all parties to the dispute resolution proceeding.'' Under a plain reading of the statute, communications are not protected when provided to, or available to, all parties; thus, they remain protected if they are provided to, or are available to, some (but not all) of the parties in a dispute.

The legislative history states, ''A dispute resolution communication originating from a party to a party or parties is not protected from disclosure by the ADR Act.'' H.R. Rep. No. 104–841, 142 Cong. Rec. H11, 110 (Sept. 25, 1996). The plain language of the statute is not inconsistent with this piece of legislative history, in that it can be interpreted to mean both parties in a two-party (''party to the other party'') or all parties in a multi-party dispute (''party to all other parties''). Citation: 5 U.S.C. 574(b)(7).

14. Does ADR Act provide confidentiality protection for all evidence used in the course of a dispute resolution proceeding?

No. All evidence that is otherwise discoverable is not protected merely because it was presented at a dispute resolution proceeding. Citation: 5 U.S.C. 574(f).

15. Does the ADR Act protect against the disclosure of dispute resolution communications in response to requests by federal entities for such information?

Section 574 of the ADR Act prohibits a neutral or a party from disclosing, voluntarily or in response to discovery or compulsory process, any protected communication. The ADR Act further states that neutrals and parties shall not ''be required'' to disclose such communications. However, a number of federal entities have statutory authority to request disclosure of documents from federal agencies and employees. Examples of such statutes include, but are not limited to, The Inspector General Act (5 U.S.C. App.); The Whistleblower Protection Act (5 U.S.C. Section 1212(b)(2)); and the Federal Service Labor-Management Relations Act (5 U.S.C. Section 7114(4)). None of the exceptions to the ADR Act's confidentiality provisions directly applies to requests for disclosure of information from federal entities. For example, these statutes do not require information to be made public under ADR Act Section 574 (a)(3) & (b)(4). In addition, the judicial override procedure outlined in Section 574 (a)(4) & (b)(5) is not always available to federal entities with authority to access information. Some federal entities may lack jurisdiction to seek a court order to compel disclosure. Other federal entities may have such jurisdiction, but may seek disclosure under other statutory authority.

In summary, a tension between these statutory authorities exists. The issues of statutory interpretation of these differing authorities have not yet been considered in an appropriate forum. We do not anticipate that there will be many occasions when such requests will be directed to neutrals or participants. However, it is important for agencies, neutrals and participants to be aware of the potential for requests.

In order to prevent unnecessary disputes over requests for information pursuant to an access statute and to mitigate damage to ADR programs, we recommend:

- Agency ADR programs should enter into a dialogue with potential requesting entities so that each may be educated about their respective missions.
- Procedures should be established for access to information that recognize the importance of confidentiality in dispute resolution processes and protect the integrity of the agency's ADR program.
- ADR programs should identify classes of information that are not confidential.
- Requesting entities should use non-confidential information as a basis for information requests.
- Requesting entities should seek confidential information only after other potential sources have been exhausted.
- Requesting entities should seek information from a neutral only as a last resort.
- The ADR program and requesting entities should agree to procedures to resolve specific disagreements that arise with regard to the disclosure of information.
- If a federal employee party or neutral receives a request for disclosure, he or she should contact the agency's ADR program as soon as possible to discuss appropriate courses of action. Neutrals must also notify parties of any such request (See Question 19).

Alternative Procedures To Establish Confidentiality Protection

16. May parties agree to confidentiality procedures which are different from those contained in ADR Act?

Yes. Parties may agree to more, or less, confidentiality protection for disclosure by the neutral or themselves than is provided for in the Act.

Subsection 574(d)(1) provides that the parties can agree to alternative confidential procedures for disclosures by a neutral. While there is no parallel provision for parties, the exclusive wording of this subsection should not be construed as indicating Congressional intent to limit alternative

procedures by parties. Parties have a general right to sign confidentiality agreements, and there is no reason this should change in a mediation context.

If the parties agree to alternative confidentiality procedures regarding disclosure by a neutral, they must so inform the neutral before the dispute resolution proceeding begins or the confidentiality procedures in the ADR Act will apply. An agreement providing for alternative confidentiality procedures is binding on anyone who signs the agreement. (See Questions 23 and 24 for potential FOIA implications.)

Example: Parties to an ADR proceeding can agree to authorize the neutral to use his or her judgment about whether to voluntarily disclose a protected communication, as long as the neutral is informed of this agreement before the ADR proceeding commences.

Example: Parties to an ADR proceeding can agree that they, and the neutral, will keep everything they say to each other in joint session confidential.

Issues Regarding the Disclosure of Protected Communications

17. What restrictions are put on the use of confidential communications disclosed in violation of the ADR Act?

If the neutral or any participant discloses a confidential communication in violation of Sections 574(a) or (b), that communication may not be used in any proceeding that is related to the subject of the dispute resolution proceeding in which the protected communication was made. A dispute resolution communication that was improperly disclosed may not be protected from use in an unrelated proceeding. Citation: 5 U.S.C. 574(c).

18. What is the penalty for disclosing confidential communications in violation of the statute?

The ADR Act does not specify any civil or criminal penalty for the disclosure of a protected communication in violation of the Act. However, such disclosure may violate other laws, regulations or agreements of the parties.

19. What must a neutral do when he or she receives a ''demand for disclosure'' of confidential communications?

A demand for disclosure is a formal request for confidential information. The demand must be made by a discovery request or some other legal process. Upon receiving a demand for disclosure of a confidential communication, a neutral must make a reasonable effort to notify the parties and any affected non-party participants of the demand. Notice must be provided even if the neutral believes that there is no basis for refusing to disclose the communication.

Notice should be delivered to the last address provided by a party. Parties have fifteen days, from the date they receive the notice, in which to offer to defend the neutral against disclosure. Therefore, notice should be sent by a process that provides certification of delivery. For example, delivery could be by registered mail, by any carrier that provides tracking and certification of delivery, or by courier. Use of telephone or email communications as notice could be problematic. Since the parties must respond within 15 days or waive their right to object to disclosure, there must be a written record of when the notice was sent and when it was received. Citation: 5 U.S.C. 574(e).

Example: A colleague asks a neutral what happened in a mediation. The neutral must simply refuse to discuss the matter. The neutral does not need to notify the parties of the request.

Example: A neutral receives a formal discovery request for information on what happened in a mediation. The neutral must notify the parties of this demand for disclosure using the procedures described above.

20. What can/must parties do when they receive notice of a demand for disclosure from the neutral?

If a party has no objection to the disclosure of confidential communications, it need not respond to the notice. On the other hand, if a party believes that the sought-after communications should not be disclosed, it should notify the neutral and make arrangements to defend the neutral. Where the party is a federal agency, it should develop departmental procedures for processing the notice.

21. What responsibilities do agencies have for ensuring that the notification requirement is met?

In some federal ADR programs, the neutral may be a federal employee performing collateral duty. Imposing an obligation upon these neutrals to keep records of parties to dispute resolution proceedings may be unduly onerous and ineffective. Agencies should develop administrative procedures to assure that the notification functions are fulfilled.

22. May a neutral refuse to disclose communications even when the parties have failed to agree to defend the neutral?

Yes. The ADR Act permits, but does not compel, a neutral to disclose if the parties have waived objections to disclosure under Section 574(e). While the statute is clear that a neutral ''shall not'' disclose where a party objects, the statute does not say that a neutral must disclose if a party does not object.

The effectiveness and integrity of mediation and other ADR processes is largely dependent on the credibility and trustworthiness of neutrals. In order to safeguard the integrity of ADR programs and to eliminate the potential for eroding confidence in future ADR proceedings, neutrals should be allowed to rely on established codes of ethics and confidentiality standards to support a decision not to disclose. Citation: 5 U.S.C. 574(a) & (e).

Issues Related to the Freedom of Information Act (FOIA)

23. What dispute resolution communications are protected from disclosure under FOIA?

Dispute resolution communications between a neutral and a party that are covered by the confidentiality protections of the ADR Act are specifically exempted from disclosure under the Freedom of Information Act. This includes communications that are generated by a neutral and provided to all parties, such as an Early Neutral Evaluation. In addition, other FOIA exemptions may apply.

Since only federal records are subject to FOIA, dispute resolution communications that are not federal records are not subject to the disclosure requirements of FOIA. Therefore, this subsection would not apply to oral dispute resolution communications. Citation: 5 U.S.C. 574(j).

24. If parties agree to alternative confidentiality procedures, are dispute resolution communications subject to FOIA?

Parties may agree to confidentiality procedures that differ from those provided for in the ADR Act. Parties should be aware, however, that the FOIA exemption may not apply to all the communications protected under their agreement.

If the agreement provides for the same or more disclosure than provided by the Act, dispute resolution communications are exempt from disclosure under FOIA. If the agreement provides for less disclosure, communications are not exempt from disclosure under FOIA. The ADR Act, in effect, establishes a ceiling on the extent to which confidential communications will be exempt. Parties cannot contract for more FOIA protection than the ADR Act provides.

V. Model Confidentiality Statement for Use by Neutrals

The confidentiality provisions of the Administrative Dispute Resolution Act

(ADR Act) apply to this process. Generally, if you tell me something during this process, I will keep it confidential. The same is true for written documents you prepare for this process and give to me. [Similarly, you are generally required to keep information confidential that you receive during conversations with other parties or me and from writings prepared for this process. *

Be advised, there are limits on our ability to keep information confidential. If you say something or provide documents to all the other parties it is not confidential. Under rare circumstances, a judge can order disclosure of confidential information. Even though not required by the ADR Act, information about a violation of criminal law, or an act of fraud, waste, or abuse, or an imminent threat of serious harm may have to be disclosed to appropriate authorities by a participant, but not necessarily by me.

You can agree to more confidentiality if you want to. For example, you can agree to keep confidential things you share with all the parties. If you want to do any of that, it will require the agreement of all parties and should be memorialized in writing. You should be aware that if you agree to more confidentiality, written documents may still be available to others, for example, through the Freedom of Information Act. Confidentiality provisions other than those in the ADR Act may also apply to this process.

ADR Program Evaluation Recommendations

I. Introduction

The alternative dispute resolution (ADR) field has long promoted the various benefits of using non-traditional methods to resolve disputes, such as savings of time and money, party satisfaction with the ADR process and outcomes, high settlement rates, and improved relationships. The ADR Council recognizes that ADR has the potential to produce these results, and notes the value of hard data to back up the assertion that ADR really delivers these benefits to agencies. The Council's Core Principles for Non-binding Workplace ADR Programs [and if approved, the ADR Pledge] identify evaluation as a key component of successful ADR program management. Up-front and thorough evaluation initiatives allow ADR program managers to ensure the quality of their programs, to identify programmatic successes and difficulties, and to make necessary improvements. Therefore, it is important that all federal ADR programs engage in a rigorous evaluation of ADR's use and benefits to ensure quality ADR programs and to provide the necessary information to sustain and increase support of ADR.

As the use of ADR becomes institutionalized within federal agencies, the government has a heightened interest in evaluating the benefits and impact of these dispute resolution initiatives. This type of formal evaluation is consistent with the legal obligations of all federal programs, under the Government Performance and Results Act (Pub. L. 103–62) which requires that agencies create a performance plan, define goals, and track the extent to which they achieve their desired outcomes. ADR program management best practices emphasize the importance of an evaluation component in program design as well as practice, and some federal agencies have initiated evaluations of their ADR programs. However, the federal sector will benefit from agencies' coordinated and uniform efforts at ADR program evaluation.

II. Recommendations

The Council acknowledges that throughout the government, ADR program goals and services differ dramatically among Federal agencies. Consequently, it is appropriate to tailor evaluation plans and methods to meet the needs of a particular program. Even with agency-specific tailoring, effective evaluations will include certain common elements. Therefore, to promote consistency and coordination among Federal ADR evaluation efforts, the Council makes the following recommendations to agencies:

1. *Importance of Evaluation.* Each agency should engage in an up-front and ongoing evaluation of its ADR programs.

2. *Data to be Captured.* At a minimum, evaluators should attempt to capture and analyze in a timely manner the following information:

a. *Usage:* the extent to which ADR is considered and used.

b. *Time Savings:* the time it takes for a case to be resolved through ADR as compared to traditional dispute resolution processes.

c. *Cost Avoidance:* the amount of financial savings (or costs) to the agency, including staff time, dollars, or other quantifiable factors, by resolving cases through ADR as compared to traditional dispute resolution processes.

d. *Customer Satisfaction:* parties' satisfaction with the process and outcomes, including the quality of the neutral.

e. *Improved Relationships:* where ongoing relationships are important, to what extent relationships are improved.

f. *Other Appropriate Indicators:* in line with the agency's strategic goals and objectives.

3. *Validity and Reliability of Data.* Methodologies should be valid and reliable. ADR program results should be compared to results from alternate or previously existing dispute resolution methods.

4. *Presentation of Data.* ADR Program Managers should present a realistic, accurate and complete picture of the results of their program.

5. *Use of Data.* ADR success stories should be summarized and publicized, to help foster a culture in which ADR is accepted as beneficial to Federal agencies and their customers. If areas for improvement are identified, that information should be used to enhance the ADR program.

6. *Reporting.* Federal ADR Program Managers are encouraged to report the results of their evaluations to the Federal Interagency ADR Working Group.

7. *Potential Resources.* In undertaking ADR activities, agencies should consult: (1) The Federal ADR Program Manager's Resource Manual, Chapter 8: Evaluating ADR Programs, and (2) The Electronic Guide to Federal Procurement ADR. Both of these resources, as well as other valuable information are available electronically at: *www.financenet.gov/iadrwg*

Evaluating ADR Programs

I. Introduction

For the past ten years the practice of ADR, the creation of ADR programs, and the discipline of ADR evaluation have been developing in tandem. We have learned that organizations best design and develop ADR programs by knowing an organization's conflict resolution culture, we see that evaluation can and should be a reflective feedback mechanism for ADR program development, and that evaluation belongs at the beginning of ADR program design. While evaluation is ideally present at the beginning of ADR program development, we recognize that there are many ADR programs already up and running that do not have evaluation components. This chapter will address ADR programs at any stage along the way of program development.

II. Planning and Designing the Evaluation

Traditional ADR program evaluation is a way to determine whether an ADR program is meeting its goals and

* Include for multi-party disputes.

objectives. Evaluation data are useful in finding out what works and what does not work and may be a critical factor in decisions to modify or expand a program.

When planning and designing a federal ADR program evaluation, it is important to understand what components of the program are essential to comply with federal statutes and initiatives. To the extent that an ADR program maintains compliance with federal ADR requirements, it fulfills a necessary and useful function for your organization or agency. A good design will build upon an existing program structure and will establish an evaluation methodology for each program ''core'' area, core areas being defined by statute or initiative. Overall program effectiveness can then be determined by combining data from all function areas, with consideration being given to intangible benefits and consumer satisfaction.

Evaluation is an art as well as a science, even, perhaps, a state of mind. It is almost never a linear process. Decisions made early in the evaluation planning and design process will almost certainly need to be reconsidered and modified as your ADR program grows and develops. In addition, traditional cost/benefit analysis does not capture many of the benefits derived from ADR service programs because these benefits are often intangible and not easily quantifiable. With all of this in mind, evaluators need to strive for a workable balance between the need for defensible results and practical limitations.

Key questions to ask when planning and designing an ADR program evaluation are:

- What are your goals and objectives for your ADR program evaluation?
- How will you pay for your ADR evaluation?
- Who will evaluate your ADR program?
- Who is your audience for this evaluation?
- What is your evaluation design strategy?
- What are your measures of success?

A. What Are Your Goals and Objectives for Your ADR Program Evaluation?

The goals and objectives of an evaluation should link closely with the goals and objectives of the ADR program being evaluated, should reflect the needs and interests of those requesting the evaluation, and should be sensitive to the needs and interests of the expected audiences for the results. Ideally, the ADR program's goals and objectives will have been established early on. Sometimes, however, these goals may not have been clearly articulated, may not be measurable as stated, or may have changed. Evaluators may need to ask program managers and other stakeholders to provide input (and hopefully arrive at a consensus) on the program's goals, while addressing questions such as, how well is the program working, should changes be made, should the program be continued or expanded, and how well is the ADR program working in a particular federal context?

B. How Will You Pay For Your ADR Evaluation?

The cost of conducting an ADR program evaluation depends upon a number of factors, such as the number and complexity of success measures, the type of ADR program selected, the level of statistical significance required of the results, the availability of acceptable data, and who is selected to carry out the evaluation. Costs can be controlled, however, by careful planning, appropriate adjustments in the design phase, and a creative use of outside evaluators, from universities, for example.

C. Who Will Evaluate Your ADR Program?

When selecting an evaluator, or a team of evaluators, a number of qualifications should be considered. Objectivity (*i.e.* no stake in the outcome) is essential for your results to be seen as credible. An evaluator should have sufficient knowledge of the ADR process as well as program expertise to design the evaluation, perform the data collection process and data analysis as well as present your results to your audience if you chose to have the evaluator present your results. Such expertise may be found inside some agency policy and program evaluation offices, at the U. S. General Accounting Office, or at various outside evaluation consulting firms and university departments specializing in social science research. Some understanding of the organization or the context in which the program operates can be helpful to the evaluator, as are good interpersonal and management skills.

Evaluations can be conducted by people outside the agency, within the agency but outside the program being evaluated, or by people involved with the ADR program. There are advantages and disadvantages to each option. An outside evaluator has the potential for the greatest impartiality, lending credibility and validity to your results. In addition, depending upon the expertise available in a particular agency, an outside evaluator may have more technical knowledge and experience. Outside evaluation may be relatively expensive, however, depending upon the affiliation of the evaluators (e.g. colleges or universities, other non-profit groups, or private sector entities such as management consulting or social science research firms). If the agency has evaluation capacity inside the organization where the ADR program is being implemented, the requisite neutrality may be available at a potentially lower cost. An inside evaluator involved in ADR program implementation or design may be the least expensive, and offer the best understanding of program context, but it also carries with it potential perceptions of a lack of impartiality. One way to avoid some of the disadvantages of each of these approaches is to use a team of people, representing internal and external groups.

Regardless of who does the evaluation (outside or inside), it is useful to have someone in the ADR program who can serve as a liaison with the evaluator to ensure access to the necessary information. The liaison might be the person responsible for planning the evaluation.

D. Who Is Your Audience For This Evaluation?

There are usually a variety of people who have an interest in the results of a program evaluation. These audiences may be interested in different issues and seek different types of information. Potential audiences should be identified as early as possible, and kept in mind while planning the evaluation, so that their questions will be addressed.

Possible audiences for an ADR program evaluation include ADR program officials, other agency officials, program users, members of Congress, the general public, and others. Agency program officials may be interested in finding out how the ADR program is working, and how it might be improved. Their interests might focus, for example, on the program's impact on case inventory (backlogs), the effects of ADR use on long-term relationships among disputants, or how well information about the program is being disseminated. Program officials involved in the day-to-day operation may have different interests than those at higher levels.

Other agency officials such as budget officers, staff within offices of General Counsel and Inspector General, or managers from other programs may also have an interest in evaluation results. Budget officials may be interested in

whether cost savings have been achieved through implementation of the program. The Inspector General may be interested in the nature of the settlements and whether ADR use promotes long-term compliance. General Counsels may care about how long it takes to resolve cases or the nature of outcomes; other managers may want to know how effectively the program was implemented.

Members of Congress and their staffs may be interested in how ADR use affects budgets and how related laws, such as the Administrative Dispute Resolution Act, are being implemented. Members of the public may be interested in how efficiently the agency is resolving its disputes, and how satisfied participants are with ADR processes. Disputants may be interested in finding out how typical their experience was compared to other users. Officials in other federal agencies may find evaluation results helpful as they plan or modify their own ADR programs. There may be other audiences whose interests or desire for information should be considered.

Although terminology differs, evaluations are commonly characterized as either: (1) Program effectiveness (also known as impact, outcome, or summative) evaluations, which focus on whether a program is meeting its goals and/or having the desired impact; or (2) program design and administration (also known as process or formative) evaluations, which examine how a program is operating. Program effectiveness evaluations may be useful in determining whether a program should be continued or expanded; program design/administration evaluations often focus on how a continuing program can be improved.

Remember that decisions on the future of programs (or even how they could be improved) are usually not made solely on the basis of program evaluation results. Agency priorities, other institutional concerns, budget limitations, and other factors will also affect program decisions.

While it is not possible to satisfy every audience by answering all potential questions, it is useful to figure out what the possible questions are and then focus the evaluation on the most important ones. Talking to members of the various potential audiences can help identify the issues they are interested in, and may help develop consensus about which issues to address. Such discussions also improve the likelihood that evaluation results will be a useful and meaningful part of future decision making processes.

E. What Is Your Evaluation Design Strategy?

ADR program design is based on an understanding that certain components of a program are essential to comply with federal statutes and initiatives. Program effectiveness evaluations are conducted to answer fundamental questions about a program's utility, e.g., does the program provide a necessary or useful function, is the program accomplishing its goals, and is the program being administered effectively. A comprehensive evaluation system measures tangible and intangible benefits, including customer satisfaction, using both quantitative and qualitative data. To be a useful and effective management and planning tool, an evaluation system must do more than provide comparison data. It also must provide a flexible process for reevaluating the goals of the program, modifying the evaluation methodology, and implementing necessary changes.

Development of an evaluation design might include the following steps:

1. Identification and Clarification of ADR Program Goals

Clear goals and objectives mean that useful conclusions can be drawn from the data collected.

2. Development of an Appropriate Evaluation Methodology

It is necessary to determine what is to be measured and how, what the sources of the data are, and how the data will be collected. To do this most effectively, core functional areas of ADR program practice need to be identified, as do quantitative and qualitative sources of data.

3. Development of an Analysis Plan and Research Methodologies

Traditionally-based experimental designs (time-cost benefit analysis) provide statistically reliable results. Program analysis, while producing quantifiable results, must go beyond a bare assessment of program outcomes to explain the outcomes and to offer suggestions for program improvement.

4. Collection Data Mechanisms

Status reports, case studies, time series collections, agency databases, logs, surveys, and evaluation forms are all sources of information, as are personal interviews.

F. What Are Your Measures of Success?

1. Program Effectiveness (Impact)

Program effectiveness measures are aimed at assessing the impact of the program on users/participants, overall mission accomplishment, etc.

The indicators of program effectiveness can be further divided into three categories: efficiency, effectiveness, and customer satisfaction.

- Efficiency

☐ Cost to the Government of using alternative dispute resolution vs. traditional dispute resolution processes:

Is the use of ADR more or less costly than the use of traditional means of dispute resolution? (Cost may be measured in staff time, dollars, or other quantifiable factors.)

☐ Cost to disputants of using alternative dispute resolution vs. traditional dispute resolution processes:

Is the use of ADR more or less costly than the use of traditional means of dispute resolution? (Cost may be measured in terms of staff time, dollars, or other quantifiable factors.)

☐ Time required to resolve disputes using alternative dispute resolution vs. traditional means of dispute resolution:

Are disputes resolved more or less quickly using ADR, compared to traditional means of dispute resolution? Such factors as administrative case processing, participant preparation, dispute resolution activity timeframes, and/or days to resolution may be considered.

- Effectiveness

☐ Dispute Outcomes

Number of settlements achieved through the use of mediation vs. traditional dispute resolution processes:

Does the use of alternative dispute resolution result in a greater or a fewer number of settlements?

Number of cases going beyond mediation steps:

Does the use of alternative dispute resolution result in a greater/fewer number of investigations, further litigation activities, etc.?

Nature of outcomes:

What impact does the use of alternative dispute resolution have on the nature of outcomes, *e.g.* do settlement agreements ''look different''? Do settlement agreements reflect more ''creative'' solutions? Do outcomes vary according to the type of alternative dispute resolution process used?

Correlations for cases selected for alternative dispute resolution, between dispute outcomes and such factors as complexity or number of issues, or number of parties:

Is there any correlation, where ADR is used, between the complexity and/or number of parties/issues in a case and the outcome of the case?

☐ Durability of Outcomes

Rate of compliance with settlement agreements:

Does the use of alternative dispute resolution result in greater or lesser levels of compliance with settlement agreements?

Rate of dispute recurrence:

Does the use of alternative dispute resolution result in greater or lesser levels of dispute recurrence, *i.e.* recurrence of disputes among the same parties?

☐ Impact on Dispute Environment

Size of case inventory:

Does the use of alternative dispute resolution result in an increase/decrease in case inventory?

Types of disputes:

Does the use of alternative dispute resolution have an impact on the types of disputes that arise?

Negative impacts:

Does the use of alternative dispute resolution have any negative consequences, e.g. an inability to diagnose and correct systemic problem/issues?

Timing of dispute resolution:

Does the use of alternative dispute resolution affect the stage at which disputes are resolved?

Level at which disputes are resolved:

Does the use of alternative dispute resolution have any impact on where and by whom disputes are resolved?

Management perceptions:

What are the quantitative and qualitative effects of using alternative dispute resolution on management, e.g. how does the use of ADR impact upon allocation and use of management time and resources? Does the use of ADR ease the job of managing?

Public perceptions:

Is the public satisfied with alternative dispute resolution outcomes? Is there any perceived impact of use of ADR on effectiveness of the underlying program? ''Public'' may be defined differently, depending on the particular program/setting involved.

• Customer Satisfaction

☐ Participants' Satisfaction with Process

Participants' perceptions of fairness:

What are participant perceptions of access to alternative dispute resolution, procedural fairness, fair treatment of parties by neutrals, etc.?

Participants' perceptions of appropriateness:

What are participant perceptions of appropriateness of matching decisions (i.e. matching of particular process to particular kinds of disputes or specific cases)?

Participants' perceptions of usefulness:

What are participant perceptions of the usefulness of alternative dispute resolution in the generation of settlement options, the quantity and reliability of information exchanged, *etc.*?

Participants' perceptions of control over their own decisions:

Do participants feel a greater or lesser degree of control over dispute resolution process and outcome through the use of alternative dispute resolution? Is greater control desirable?

☐ Impact on Relationships Between Parties

Nature of relationships among the parties:

Does the use of alternative dispute resolution improve or otherwise change the parties' perceptions of one another? Is there a decrease or increase in the level of conflict between the parties? Are the parties more or less likely to devise ways of dealing with future disputes? Are the parties able to communicate more directly or effectively at the conclusion of the ADR process and/or when new problems arise?

☐ Participants' Satisfaction with Outcomes

Participants' satisfaction with outcomes:

Are participants satisfied or unsatisfied with the outcomes of cases in which alternative dispute resolution has been used?

Participants' willingness to use alternative dispute resolution in the future:

Would participants elect to use alternative dispute resolution in future disputes?

2. Program Design and Administration (Structure and Process)

How a program is implemented will have an impact on how effective a program is in meeting its overall goals. Program design and administration measures are used to examine this relationship and to determine how a program can be improved.

The indicators of program design and administration are further divided into three categories: program organization, service delivery, and program quality.

• Program Organization

☐ Program structure and process:

Are program structure and process consistent with underlying laws, regulations, executive orders, and/or agency guidance? Do program structure and process adequately reflect program design? Are program structure and process adequate to permit appropriate access to and use of the program?

☐ Directives, guides, and standards:

Do program directives, guides, and standards provide staff/users with sufficient information to appropriately administer/use the program?

☐ Delineation of responsibilities:

Does the delineation of staff/user responsibilities reflect program design? Is the delineation of responsibilities such that it fosters smooth and effective program operation?

☐ Sufficiency of staff (number/type):

Is the number/type of program staff consistent with program design and operational needs?

☐ Coordination/working relationships:

Is needed coordination with other relevant internal and external individuals and organizations taking place? Have effective working relationships been established to carry out program objectives?

• Service Delivery

☐ Access and Procedure

Participant access to alternative dispute resolution:

Are potential participants made aware of the program? Is the program made available to those interested in using ADR?

Relationship between participant perceptions of access and usage of alternative dispute resolution:

What impact do participants' perceptions about the availability of the program have on the levels of program usage?

Participant understanding of procedural requirements:

Do program users understand how the program works? Did they feel comfortable with the process in advance?

Relationship between procedural understanding and rates of usage:

Is there any relationship between the level of participant understanding and the degree of program use, *e.g.* is a lack of participant understanding serving as a disincentive to using the program?

☐ Case Selection Criteria

Participants' perceptions of fairness, appropriateness:

Do participants feel that appropriate types of cases are being handled in the program? Do participants or non-participants feel that the criteria for which cases are eligible for alternative dispute resolution are fair? Are cases being sent to the program at the appropriate dispute stages?

Relationship between dispute outcomes and categories of cases:

Is there a correlation between the nature (size, types of disputants, and/or stage of the dispute) of cases and the outcome of the dispute? Are certain types of cases more likely to be resolved through alternative dispute resolution than other types?

• Program Quality

☐ Training

Participants' perceptions of the appropriateness of staff and user training:

Do participants feel that they were provided with sufficient initial information and/or training on how to use the program? Do they feel that program staff had sufficient training and/or knowledge to appropriately conduct the program?

Relationship between training variable and dispute outcomes:

Is there a relationship between the type/amount of training (for participant and/or staff) and dispute outcomes?

☐ Neutrals

Participants' views of the selection process:

Are participants satisfied with the manner in which neutrals were selected and assigned to cases? Were they involved in the selection decision? If not, did they feel they should be?

Relationship between participants' views of the selection process, perceptions of neutral competence and objectivity, and dispute outcomes:

Is there any relationship between participant views about the neutrals selection process and dispute outcomes? How do these views affect participants' assessment of the competence and neutrality of neutrals?

Participants' perceptions of competence (including appropriateness of skill levels/training):

Do participants feel that neutrals were sufficiently competent or trained? Do participants feel that more or less training was needed?

Participants' perceptions of neutrality/objectivity:

Do participants feel that neutrals were sufficiently objective? Do participants feel that neutrals were fair in their handling of the dispute?

G. Other Specific Program Features

Every dispute resolution program is unique. Those requesting and/or conducting an evaluation may want to consider examining other aspects of the program. These unique features may relate to the design of a program, who was and continues to be involved in program design and administration, etc. Each is likely to have at least some impact on service delivery and the quality of the program, and should be considered for inclusion in either a comprehensive or selected evaluation of the program, as appropriate.

II. Presentation, Dissemination, and Use of Results

Results should be communicated in ways that will allow meaningful decisionmaking by program administrators and decisionmakers.

It is easier to make decisions about the best way to present and disseminate results if the people who will use the results (the audience) have been consulted during the initial and subsequent evaluation processes. Such consultation can avoid costly or embarrassing errors; e.g., omission of a key area for analysis, and can ensure the report meets the needs of those who will be using it.

A. What Is the Best Method for Communicating Your Findings?

There are a variety of ways that evaluators can communicate results to potential audiences. Evaluators or program staff may provide briefings, hold meetings with users, and/or prepare a written report.

Briefings and presentations allow evaluators or program staff to convey important evaluation information quickly and selectively. In selecting material to be presented, care should be taken to avoid bias or presentation of material out of context. Some discussion of methodology is important, as are appropriate cautions about the limits and appropriate use of evaluation data. Providing for interaction with or feedback from the audience may allow issues and potential problems to be identified.

Written reports typically take a great deal of time to prepare, but allow evaluators to provide considerably more detail on both methodology and results. Legislation or executive decisions often require a final, written report. If it is important to ensure that there is one ''official'' source of information on evaluation methodology and results, a formal, written report may be an important and/or required format in addition to briefings and presentations by evaluators or staff.

B. What Kind of Information Needs to Be Communicated?

Although the potential audiences, program content, and evaluation objectives will vary for each ADR program evaluation, it is generally helpful to include the following kinds of information in a report or other type of presentation:

- Description of the ADR program and how it operates;
- Goals and objectives of the evaluation;
- Description of the evaluator's methodology;
- Presentation of evaluation findings;
- Discussion of program strengths and weaknesses;
- Implications for program administration (e.g., training, budget, staff.); and
- Recommendations as appropriate.

Presentation style is entirely a matter of what works for whom. It is always important, however, to make sure that evaluation data are presented accurately and completely, to prevent charges of misrepresentation or overreaching, and to avoid misuse of results.

B. How Can You Enhance the Effectiveness of Your Presentation?

Variations in presentation format and style aside, we offer the following suggestions for making the presentation of evaluation results as effective as possible.

- Involve potential users as early as possible in determining presentation format and style:

Evaluation data should be organized and communicated in a way that is useful for potential audiences and users.

- Tailor presentation method, format, and style to audience needs:

Select the method of presentation (*e.g.,* oral briefing, written report), format, and style of presentation (*e.g.,* formal vs. informal, briefing vs. discussion) based on who your audience is and what their needs are. There may be multiple audiences with multiple needs. Be flexible and willing to adapt material as appropriate.

- Be clear and accurate:

Evaluation information must be presented clearly and accurately. Always keep the audience in mind as you prepare to describe your ADR program and present evaluation data. Avoid any gaps in describing the program or presenting the results. A clear and accurate portrayal of the program and evaluation results will allow the audience to draw appropriate conclusions about program effectiveness and any need for change.

- Be honest and direct:

Sharing evaluation findings with potential users and involving them in key decisions concerning presentation format and style does not mean publishing only those findings that reflect well on the program or those affiliated with it. Evaluators must present the story objectively; too heavy an emphasis on the positive may cast doubt on the integrity of the results as well as the integrity of the evaluators. Data that suggest weaknesses in program design or administration or that reveal failure to accomplish program goals or objectives should be reported and can be used as a basis for suggesting appropriate changes. Honest analysis and thoughtful consideration of the information will enhance both the credibility and usefulness of the results.

- Keep the body of the report or the bulk of the presentation simple: Reduce

complex data to understandable form, use graphic illustrations where appropriate. Evaluation results must be presented so that the most essential data are available, understandable, and useful. Too complex a format or over-reliance on narrative may detract from evaluation results and analysis. Organize the presentation or report for multiple uses. Use headings and subheadings to help the audience identify useful information quickly.

Limit the use of technical jargon. Prevent misinterpretation or misuse by considering how the data will look if lifted from the context of the presentation or report. Use simple graphics to illustrate results and call attention to key findings. Use footnotes and make technical data available in handouts or appendices so that the body of the presentation or report is as uncomplicated as possible.

• Provide an executive summary or abstract:

Evaluators should provide an overview. The ''quick take'' should be supplemented by more detailed discussion later in the report.

• Make survey instruments and other data collection tools available: Materials can be made available as handouts, at an oral presentation or face-to-face meeting, or as appendices to a written report. The availability of such material enhances both understanding and credibility. It also allows other ADR program evaluators to learn from the experiences of their peers.

• Note limitations on the interpretation and use of evaluation data, where appropriate: Limitations on the interpretation of the data, such as those that might relate to the ability to study results, should be communicated to the audience. Evaluators need to exercise caution in expressing their own views and conclusions. Where conclusions are not an objective reflection of the data, they need to be labeled appropriately; *i.e.*, as the views of the evaluators and not necessarily of officials responsible for the program.

• Expect the need for follow-up; be flexible and responsive:

Have extra copies of reports and presentation handouts available. Keep materials accessible. Provide addresses and telephone numbers for follow-up discussion or questions. Be available for consultation. Stay abreast of how results are being used; provide clarification or added direction in the case of misinterpretation or misuse. Prepare additional materials as needed. Tailor subsequent releases to customer needs.

B. Who Is Responsible for Making Decisions Regarding the Dissemination of Evaluation Results?

It is important to think about dissemination of the results at two points: early in the planning process, and again as results become available. Decisions about dissemination may be made solely by the evaluator, solely by program officials or other entity that has requested the evaluation, or, more typically, cooperatively. Such decisions may be circumscribed by contract or agreement, or may be discussed and resolved informally by evaluators and decisionmakers.

C. When Should Evaluation Results Be Made Available?

Decisionmakers need to consider the implications of releasing evaluation results at different times. For example, if you want publicity for the results, select slower news days. The timing of data release may be defined by contract or agreement, or may otherwise be discussed and resolved by evaluators and decisionmakers. Releasing preliminary data before all data are collected or analyzed may be risky.

D. How Widely Will Evaluation Results Be Disseminated?

Evaluation results may be disseminated widely or narrowly. Cost, convenience, and level of interest are likely to play a role. It is rare that either the evaluator or program officials will have complete control over dissemination of the results.

E. How Will Evaluation Results Be Disclosed Initially?

Evaluation results can be initially disclosed in different ways, with more or less fanfare. They may be made available to the selected audiences by memorandum, by press release, by press conference, etc. Typically, such decisions will be made at the executive level, by those who have the authority to make the disclosure.

Evaluation Checklist

✔ Is your ADR program ongoing or in the formative stage?

✔ What are your goals and objectives for your ADR program evaluation?

✔ How will you pay for your ADR program evaluation?

✔ Who will do the evaluation?

✔ Who is your audience?

✔ What is your evaluation design strategy?

✔ What are your measures of success?

✔ What do you need to know about your program effectiveness (impact)?

✔ What do you need to know about your program structure and administration?

✔ How and when will you disseminate your evaluation results?

Resources

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Empowerment Evaluation: *http://www.stanford.edu/davidf/empowermentevaluation.html*

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Posovac, Emil J. and Raymond B. Carey. (1997). *Program Evaluation: Methods and Case Studies, 5th Edition.* Prentice Hall Humanities/Social Sciences.

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Susskind, L. E. (1986). Evaluating Dispute Resolution Experiments. *Negotiation Journal, April,* 135–139.

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This document was written by Lee Scharf, ADR Specialist at the Environmental Protection Agency, and draws from the work of Cathy Costantino and Christine Sickles-Merchant as well as that of the Administrative Conference of the United States. See the Resources section for cites.

[FR Doc. 00–25397 Filed 10–3–00; 8:45 am]

BILLING CODE 4410–AR–U

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA # 207P]

Controlled Substances: Proposed Aggregate Production Quotas for 2001

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed year 2001 aggregate production quotas.

SUMMARY: This notice proposes initial year 2001 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act (CSA).

DATES: Comments or objections must be received on or before November 3, 2000.

ADDRESSES: Send comments or objections to the Deputy Administrator, Drug Enforcement Administration, Washington, D.C. 20537, Attn.: DEA Federal Register Representative (CCR).

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotes for each basic class of controlled substance listed in Schedules I and II. This responsibility has been delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations. The Administrator, in turn, has redelegated this function to the Deputy Administrator of the DEA pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations.

The proposed year 2001 aggregate production quotas represent those quantities of controlled substances that may be produced in the United States in 2001 to provide adequate supplies of each substance for: The estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks. These quotas do not include imports of controlled substances for use in industrial processes.

In determining the proposed year 2001 aggregate production quotas, the Deputy Administrator considered the following factors: total actual 1999 and estimated 2000 and 2001 net disposals of each substance by all manufacturers; estimates of 2000 year-end inventories of each substance and of any substance manufactured from it and trends in accumulation of such inventories; product development requirements of both bulk and finished dosage form manufacturers; projected demand as indicated by procurement quota applications filed pursuant to Section 1303.12 of Title 21 of the code of Federal Regulations; and other pertinent information.

Pursuant to Section 1303 of Title 21 of the Code of Federal Regulations, the Deputy Administrator of the DEA will, in early 2001, adjust aggregate production quotas and individual manufacturing quotas allocated for the year based upon 2000 year-end inventory and actual 2000 disposition data supplied by quota recipients for each basic class of Schedules I or II controlled substance.

Therefore, under the authority vested in the Attorney General by Section 306 of the CSA of 1970 (21 U.S.C. 826), delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations, and the Deputy Administrator hereby proposes that the year 2001 aggregate production quotas for the following controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	Proposed year 2001 quotas
Schedule I:	
2,5-Dimethoxyamphetamine	15,501,000
2,5-Dimethoxy-4-ethylamphetamine (DOET)	2
3-Methylfentanyl	14
3-Methylthiofentanyl	2
3,4-Methylenedioxyamphetamine (MDA)	25
3,4-Methylenedioxy-N-ethylamphetamine (MDEA)	30
3,4-Methylenedioxymethamphetamine (MDMA)	10
3,4,5-Trimethoxyamphetamine	2
4-Bromo-2,5-Dimethoxyamphetamine (DOB)	2
4-Bromo-2,5-Dimethoxyphenethylamine (2–CB)	2
4-Methoxyamphetamine	201,000
4-Methylaminorex	2
4-Methyl-2,5-Dimethoxyamphetamine (DOM)	2
5-Methoxy-3,4-Methylenedioxyamphetamine	2
Acetyl-alpha-methylfentanyl	2
Acetyldihydrocodeine	2
Acetylmethadol	2
Allylprodine	2
Alphacetylmethadol	7
Alpha-ethyltryptamine	2
Alphameprodine	2
Alphamethadol	2
Alpha-methylfentanyl	2
Alpha-methylthiofentanyl	2
Aminorex	7
Benzylmorphine	2
Betacetylmethadol	2
Beta-hydroxy-3-methylfentanyl	2
Beta-hydroxyfentanyl	2
Betameprodine	2
Betamethadol	2
Betaprodine	2
Bufotenine	2
Cathinone	9
Codeine-N-oxide	2
Diethyltryptamine	2
Difenoxin	9,000
Dihydromorphine	634,000
Dimethyltryptamine	2
Gamma-hydroxybutyric acid	15,000,000
Heroin	2
Hydroxypethidine	2
Lysergic acid diethylamide (LSD)	37
Marihuana	350,000
Mescaline	7
Methaqualone	19
Methcathinone	11
Morphine-N-oxide	2
N,N-Dimethylamphetamine	7
N-Ethyl-l-Phenylcyclohexylamine (PCE)	5
N-Ethylamphetamine	7
N-Hydroxy-3,4-Methylenedioxyamphetamine	2
Noracymethadol	2
Norlevorphanol	2
Normethadone	7
Normorphine	7
Para-fluorofentanyl	2
Pholcodine	2
Porpiram	415,000
Psilocybin	2
Psilocyn	2
Tetrahydrocannabinols	131,000
Thiofentanyl	2

Basic class	Proposed year 2001 quotas
Trimeperidine	2
Schedule II:	
1-Phenylcyclohexylamine	12
1-Piperidinocyclohexanecarbonitrile (PCC)	10
Alfentanil	3,000
Alphaprodine	2
Amobarbital	12
Amphetamine	10,958,000
Cocaine	251,000
Codeine (for sale)	43,248,000
Codeine (for conversion)	59,051,000
Dextropropoxyphene	134,401,000
Dihydrocodeine	272,000
Diphenoxylate	401,000
Ecgonine	51,000
Ethylmorphine	12
Fentanyl	440,000
Glutethimide	2
Hydrocodone (for sale)	21,417,000
Hydrocodone (for conversion)	26,540,000
Hydromorphone	1,409,000
Isomethadone	12
Levo-alphacetylmethadol (LAAM)	41,000
Levomethorphan	2
Levorphanol	15,000
Meperidine	10,168,000
Methadone (for sale)	8,347,000
Methadone (for conversion)	60,000
Methadone Intermediate	9,503,000
Methamphetamine	2,226,000
850,000 grams of levo-desoxyephedrine for use in a non-controlled, non-prescription product; 1,325,000 grams for methamphetamine for conversion to a Schedule III product; and 51,000 grams for methamphetamine (for sale).	
Methylphenidate	14,957,000
Morphine (for sale)	14,706,000
Morphine (for conversion)	117,675,000
Nabilone	2
Noroxymorphone (for sale)	25,000
Noroxymorphone (for conversion)	3,180,000
Opium	570,000
Oxycodone (for sale)	46,680,000
Oxycodone (for conversion)	449,000
Oxymorphone	264,000
Pentobarbital	22,037,000
Phencyclidine	40
Phenmetrazine	2
Phenylacetone	10
Secobarbital	12
Sufentanil	1,000
Thebaine	65,596,000

The Deputy Administrator further proposes that aggregate production quotas for all other Schedules I and II controlled substances included in Sections 1308.11 and 1308.12 of Title 21 of the Code of Federal Regulations be established at zero.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on the proposal relating to any of the above-mentioned substances without filing comments or objections regarding the others. If a person believes that one or more or these issues warrant a hearing, the individual should so state and summarize the reasons for this belief.

In the event that comments or objections to this proposal raise one or more issues which the Deputy Administrator finds warrant a hearing, the Deputy Administrator shall order a public hearing by notice in the **Federal Register,** summarizing the issues to be heard and setting the time for the hearing.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*. The establishment of aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Dated: September 27, 2000.

Julio F. Mercado,

Deputy Administrator.

[FR Doc. 00–25421 Filed 10–3–00; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL SCIENCE FOUNDATION

Committee Management; Renewal

The NSF management official having responsibility for the U.S. National Assessment Synthesis Team (#5219) has determined that renewing through October 31, 2000, is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 USC 1861 et seq. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Authority for this Committee will expire on October 31, 2000. For more information, please contact Karen York, NSF, at (703) 292–4387.

Dated: September 28, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25400 Filed 10–3–00; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–213]

Connecticut Yankee Atomic Power Company, et al., Haddam Neck Plant; Notice of Public Meeting To Discuss the Haddam Neck License Termination Plan

The Nuclear Regulatory Commission (NRC) is in receipt of and has made available for public inspection and comment the License Termination Plan (LTP) for the Haddam Neck Plant (HNP) located in Haddam, Connecticut. NRC's receipt of the HNP LTP and the LTP's availability for comment was noticed in the **Federal Register** on August 23, 2000 (65 FR 51345). The subject of this notice is to announce that NRC staff will conduct a public meeting to discuss the HNP LTP on Tuesday, October 17, 2000, at 7:00 p.m. at Haddam—Killingworth High School, Higganum, Connecticut.

Connecticut Yankee Atomic Power Company (CYAPC, or the licensee) announced permanent cessation of power operations of HNP on December 5, 1996. In accordance with NRC regulations, CYAPC submitted a Post-Shutdown Decommissioning Activities Report (PSDAR) for HNP to the NRC on August 22, 1997. The facility is undergoing active decontamination and dismantlement.

In accordance with 10 CFR 50.82(a)(9), all power reactor licensees must submit an application for termination of their license. The application for termination of license

must be accompanied or preceded by an LTP to be submitted for NRC approval. If found acceptable by the NRC staff, the LTP is approved by license amendment, subject to such conditions and limitations as the NRC staff deems appropriate and necessary. CYAPC submitted the proposed LTP for HNP by application dated July 7, 2000. In accordance with 10 CFR 20.1405 and 10 CFR 50.82(a)(9)(iii), the NRC provided notice to individuals in the vicinity of the site that the NRC was in receipt of the HNP LTP and would accept comments from affected parties (65 FR 51345). In accordance with 10 CFR 50.82(a)(9)(iii), the NRC is hereby providing notice that NRC staff will conduct a meeting to discuss the HNP LTP.

The HNP LTP (ADAMS Accession Number ML003735143) may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and is accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). The LTP may also be viewed at the CYAPC Web site at *www.connyankee.com.*

For further information, contact: Mr. Louis L. Wheeler by mail, Mail Stop O–7–C2, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001; telephone 301–415–1444; or e-mail dxw@nrc.gov.

Dated at Rockville, Maryland, this 28th day of September 2000.

For the Nuclear Regulatory Commission.

Michael T. Masnik,

Chief, Decommissioning Section, Project Directorate IV and Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–25462 Filed 10–3–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–368]

Entergy Operations, Inc.; Arkansas Nuclear One, Unit 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from 10 CFR Part 50, Appendix J, for Facility Operating License No. NPF–6, issued to Entergy Operations, Inc. (the licensee), for operation of Arkansas Nuclear One, Unit 2 (ANO–2), located in Pope County, Arkansas.

Environmental Assessment

Identification of the Proposed Action

The proposed action would provide a one-time exemption to Entergy Operations, Inc. from the requirements of Title 10 of the Code of Federal Regulations (10 CFR) Part 50, Appendix J, ''Primary Reactor Containment Leakage Testing For Water-Cooled Power Reactors,'' which requires that licensees of all power reactors conduct integrated leakage rate tests (ILRT) under conditions representing design basis loss-of-coolant accident containment peak pressure. The licensee requires an exemption in order to conduct the ILRT at the same pressure that is used for the structural integrity test (SIT).

The proposed action is in accordance with the licensee's application for exemption dated June 29, 2000.

The Need for the Proposed Action

The ANO–2 steam generators (SGs) are scheduled for replacement during the fall of 2000. The replacement SGs (RSGs) will require that an access opening be cut in the containment building structure. Upon closure of the structure, an ILRT will be required to test for primary containment leakage integrity.

The ANO–2 containment building was originally designed and tested for an internal pressure of 54 psig. The ANO–2 containment building has recently been reevaluated, to address the containment post-accident response resulting from the RSGs, for an increase in accident pressure to 58 psig with a design pressure of 59 psig, and shown to be acceptable as discussed in a letter to the NRC dated November 3, 1999, as revised by a letter dated June 29, 2000. As a result of this increase, an SIT will be performed to evaluate the ANO–2 containment building for the change in containment design pressure. The purpose of the SIT is to verify that the containment building structure can safely carry design loads and that the structural behavior is similar to that predicted by analysis. The post-RSG SIT will be performed at 68 psig (1.15 times the revised design pressure). The licensee would like to also perform the ILRT concurrently with the post-RSG SIT, at the SIT pressure of 68 psig, in order to recover approximately 30 hours of projected plant outage time. However, Appendix J requires that the ILRT be conducted at a pressure representing the design basis loss-of-coolant accident containment peak pressure, which is 58 psig. Hence, the need for the proposed exemption.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the ''Final Environmental Statement Related to the Operation of Arkansas Nuclear One, Unit 2,'' dated June 1977.

Agencies and Persons Consulted

In accordance with its stated policy, on September 7, 2000, the staff consulted with the Arkansas State official, Bernie Bevill of the Arkansas Department of Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the

NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated June 29, 2000, which may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:www.nrcgov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 28th day of September 2000.

For the Nuclear Regulatory Commission.

Mohan C. Thadani,

Acting Chief, Section 1, Project Directorate IV–1 & Decommissioning Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–25463 Filed 10–3–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Ad Hoc Subcommittee; Revised

The ACRS Ad Hoc Subcommittee meeting scheduled for October 10–13, 2000 has been extended to Saturday, October 14, 2000, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland, 8:30 a.m. until 12 Noon to discuss proposed comments and recommendations on the technical merits of the Differing Professional Opinion Issues associated with steam generator tube integrity. Notice of this meeting was previously published in the **Federal Register** on Wednesday, September 20, 2000 (65 FR 56945). All other items pertaining to this meeting remains the same as previously published.

For further information contact either Mr. Sam Duraiswamy (telephone 301–415–7364) or Ms. Undine Shoop (telephone 301–415–8086) between 7:30 a.m. and 4:15 p.m. (EDT).

Dated: September 28, 2000.

James E. Lyons,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 00–25459 Filed 10–3–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Plant License Renewal

The ACRS Subcommittee on Plant License Renewal will hold a meeting on October 19–20, 2000, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, October 19, 2000—8 a.m. until the conclusion of business.

The Subcommittee will review drafts of the Standard Review Plan for license renewal and the Generic Aging Lessons Learned (GALL) Report sections 2, 3, and 4.

Friday, October 20, 2000—8 a.m. until the conclusion of business.

The Subcommittee will review drafts of GALL Report sections 5 through 8, the associated Regulatory Guide, and Nuclear Energy Institute (NEI) 95–10, ''Industry Guideline For Implementing The Requirements of 10 CFR Part 54—The License Renewal Rule.''

The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, the Nuclear Energy Institute, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: September 28, 2000

James E. Lyons,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 00–25460 Filed 10–3–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Reactor Fuels; Notice of Meeting

The ACRS Subcommittee on Reactor Fuels will hold a meeting on October 18, 2000, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, October 18, 2000—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss the status of the staff's effort regarding the draft report of a technical study of Spent Fuel Pool Accident Risk at Decommissioning Nuclear Power Plants, and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be

present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Dr. Medhat El-Zeftawy (telephone 301/415–6889) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes in the proposed agenda, etc., that may have occurred.

Date: September 27, 2000.

James E. Lyons,

Associate Director for Technical Support ACRS/ACNW.

[FR Doc. 00–25461 Filed 10–3–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of October 2, 9, 16, 23, 30, and November 6, 2000.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 2

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)

This meeting will be webcast live at the Web address—

www.nrc.gov/live.html

Week of October 9—Tentative

There are no meetings scheduled for the Week of October 9.

Week of October 16—Tentative

Tuesday, October 17

9:25 a.m.

Affirmation Session (Public Meeting) (If needed)

Week of October 23—Tentative

Monday, October 23

1:55 p.m.

Affirmation Session (Public Meeting) (If needed)

Week of October 30—Tentative

There are no meetings scheduled for the week of October 30.

Week of November 6—Tentative

There are no meetings scheduled for the Week of November 6.

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, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: September 29, 2000.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 00–25564 Filed 10–2–00; 11:36 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations; Biweekly Notice

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from September 11, 2000, through September 22, 2000. The last biweekly notice was published on September 20, 2000 (65 FR 56946, as corrected at 65 FR 57484 and 65 FR 58113).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission

take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By November 3, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the NRC's Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of amendments request: June 8, 2000.

Description of amendments request: The licensee proposes to amend Technical Specification (TS) 5.6.5, ''Core Operating Limits Report (COLR),'' to add a methodology using the

CASMO–4 and SIMULATE–3 codes to the list of analytical methods used to determine core operating limits contained in TS 5.6.5.b. The change would allow the use of the CASMO–4 and SIMULATE–3 methodology to perform nuclear design calculations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Standard 1—Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Arizona Public Service Company (APS) intends to replace the DIT/ROCS/MC methodology with CASMO–4/SIMULATE–3 code package. The proposed amendment would add methodology using CASMO–4 and SIMULATE–3 codes to the list of analytical methods used to determine core operating limits contained in Technical Specification 5.6.5.b. This will allow the use of the CASMO–4 and SIMULATE–3 methodology to perform all steady-state PWR [pressurized-water reactor] core physics analyses.

The probability of occurrence of an accident previously evaluated will not be increased by the proposed change in the particular codes used for physics calculations for nuclear design analysis. The results of nuclear design analyses are used as inputs to the analysis of accidents that are evaluated in the Updated Final Safety Analysis Report (UFSAR). These inputs do not alter the physical characteristics or modes of operation of any system, structure, or component involved in the initiation of an accident. Thus, there is no significant increase in the probability of an accident previously evaluated as a result of this change.

The consequences of an accident evaluated in the UFSAR are affected by the value of inputs to the transient safety analysis. An extensive benchmark of CASMO–4/SIMULATE–3 predictions with measured data using a variety of fuel designs and operating conditions in power reactors and critical experiments, was performed. The accuracy of CASMO–4/SIMULATE–3 is similar to, and sometimes better than, the accuracy of DIT/ROCS/MC. Furthermore, there is always the potential for the value of the nuclear design parameters to change solely as a result of the new reload fuel core loading pattern. Regardless of the source of a change, an assessment is always made of changes to the nuclear design parameters with respect to their effects on the consequences of accidents previously evaluated in the UFSAR. Refueling is an anticipated activity which is described in the UFSAR. If increased consequences are anticipated, compensatory actions are implemented to neutralize any expected increase in consequences. These compensatory actions include, but are not limited to, crediting any existing margins in the analysis or redefining the operating envelope to avoid increased consequences. Thus, the nuclear design parameters are intermediate results and by themselves will not result in an increase in the consequence of an accident evaluated in the UFSAR.

Therefore, the replacement of the DIT/ROCS/MC codes with the CASMO–4/SIMULATE–3 code package, which will perform the same functions as the DIT/ROCS/MC codes with similar accuracy, does not significantly increase the consequences of an accident previously evaluated.

Standard 2—Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Arizona Public Service Company (APS) intends to replace the DIT/ROCS/MC methodology with CASMO–4/SIMULATE–3 code package. The proposed amendment would add methodology using CASMO–4 and SIMULATE–3 codes to the list of analytical methods used to determine core operating limits contained in Technical Specification 5.6.5.b.

The possibility for a new or different kind of accident evaluated previously in the UFSAR will not be created by the proposed change to the particular codes used for physics calculations for nuclear design analyses. The change involves replacing the NRC approved ABB Combustion Engineering Nuclear Power (ABB/CE) DIT and ROCS/MC codes, with the Studsvik CASMO–4 and SIMULATE–3 codes. The results of nuclear design analyses are used as inputs to the analysis of accidents that are evaluated in the UFSAR. These inputs do not alter the physical characteristics or modes of operation of any system, structure or component involved in the initiation of an accident.

Therefore, the replacement of the DIT/ROCS/MC codes with the CASMO–4/SIMULATE–3 code package, which will perform the same functions as the DIT/ROCS/MC codes with similar accuracy, does not increase the possibility of a new or different kind of accident from any accident previously evaluated.

Standard 3—Does the proposed change involve a significant reduction in a margin of safety?

No. The proposed change does not involve a significant reduction in a margin of safety.

The margin of safety as defined in the basis for any technical specification will not be reduced nor increased by the proposed change to the particular codes used for physics calculations for nuclear design analyses. The change involves replacing the NRC approved ABB/CE DIT and ROCS/MC codes, with the Studsvik CASMO–4 and SIMULATE–3 codes. Extensive benchmarking of the CASMO–4/SIMULATE–3 computer codes has demonstrated that the values of those parameters used in the safety analysis are not significantly changed relative to the values obtained using the DIT/ROCS/MC computer codes. For any changes in the calculated values that do occur, the application of appropriate biases and uncertainties ensures that the current margin of safety is maintained. Specifically, use of these code specific biases and uncertainties in safety evaluations continues to provide the same statistical assurance that the values of the nuclear parameters used in the safety analysis are conservative with respect to the actual values on at least a 95/95 probability/confidence basis.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999

NRC Section Chief: Stephen Dembek.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of amendments request: June 16, 2000.

Description of amendments request: The licensee proposes to amend Technical Specification (TS) Table 3.3.10–1, ''Post Accident Monitoring Instrumentation,'' to add the High Pressure Safety Injection cold leg flow and hot leg flow instrumentation to this table. This change is required because this instrumentation meets the criteria for a Regulatory Guide 1.97, ''Instrumentation for Light-Water-Cooled Nuclear Power Plants To Assess Plant and Environs Conditions During and Following an Accident,'' Revision 2, Type A, Category 1 variable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Standard 1—Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change to TS Table 3.3.10–1, by adding the High Pressure Safety Injection (HPSI) hot and cold leg flow instrumentation, does not involve a significant increase in the probability or consequences of an accident previously evaluated because it does not represent a change to design configuration or operation of the plant. The amendment does not affect

the operability or availability of the HPSI system or any other safety related equipment. Additionally, there are no effects on the failure modes associated with the probability of a failure of a system important to safety.

Standard 2—Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the change does not impact the response or operation of the plant. The availability and operability of the plant equipment is unchanged, as the design requirements have not changed.

The proposed change revises only the Regulatory Guide (RG) 1.97, Revision 2, classification of the HPSI hot leg and cold leg flow indication loops. Regardless of RG classification the instruments remain seismically, electrically, and otherwise qualified for the application. Hence, the revised classification will not subject these components to new modes of operation that could result in a new failure mode, thus initiating an accident of a different type.

Standard 3—Does the proposed change involve a significant reduction in a margin of safety?

No. This proposed amendment does not involve a significant reduction in the margin of safety because neither of the following PVNGS Technical Specification (TS) Bases (B 3.5.3 ECCS [emergency core cooling system]—Operating, or 3.3.10 Post Accident Monitoring (PAM) Instrumentation) is changed by the proposed amendment.

TS Bases B 3.5.3 ECCS—Operating—states that the function of the ECCS is to provide core cooling and negative reactivity to ensure that the reactor core is protected after any of the following accidents:

a. Loss of Coolant Accident (LOCA);

b. Control Element Assembly (CEA) ejection accident;

c. Loss of secondary coolant accident, including uncontrolled steam release or loss of feedwater; and

d. Steam Generator Tube Rupture (SGTR).

Changing the RG 1.97 Type and Category of these instruments does not affect the ability of the ECCS to provide core cooling and negative reactivity during these accidents.

TS Bases B 3.3.10—Post Accident Monitoring (PAM) Instrumentation—states that the primary purpose of PAM instrumentation is to display plant variables that provide information required by the control room operators during accident situations. This information provides the necessary support for the operator to take the manual actions, for which no automatic control is provided, that are required for safety systems to accomplish their safety functions for Design Basis Events.

The OPERABILITY of PAM instrumentation ensures that there is sufficient information available on selected plant parameters to monitor and assess plant status and behavior following an accident.

These Type A variables are required to be included in this LCO [Limiting Condition for Operation] because they provide the primary information required to permit the control room operator to take specific manually controlled actions, for which no automatic control is provided, that are required for safety systems to accomplish their safety functions for Design Basis Accidents (DBAs). The addition of these instruments supports this TS Bases. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

NRC Section Chief: Stephen Dembek.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: May 5, 1999, as supplemented on December 22, 1999, and September 18, 2000.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3.5, ''Instrumentation Systems,'' for the reactor protection system and engineered safety features actuation system instrumentation. Specifically, the proposed amendment would (1) change the allowed outage times for the instrumentation and the analog channel test bypass time and (2) allow on-line testing and maintenance of instrumentation. The proposed amendment also includes several editorial changes to TS Tables 3.5–2 and 3.5–3. The proposed amendment was originally noticed in the **Federal Register** on September 8, 1999 (64 FR 48861). It is now being noticed to correct errors made in the original notice description of amendment request.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The reactor protection and engineered safety features functions are not initiators of any design basis accident or event and therefore do not increase the probability of any accident previously evaluated. The proposed changes to the AOTs [allowed outage times], bypass times, and allowing on-line testing and maintenance have an insignificant impact on plant safety based on the calculated CDF [core damage frequency] increase being less than 1.0E–06. Therefore, the proposed changes do not result in a significant increase in the consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not result in a change in the manner in which the RPS [reactor protection system] and ESFAS [engineered safety features actuation system] provide plant protection. No change is being made which alters the functioning of the RPS and ESFAS. Rather, the likelihood or probability of the RPS or ESF functioning properly is affected as described above. Therefore, the proposed changes do not create the possibility of a new or different kind of accident nor involve a reduction in the margin of safety as defined in the Safety Analysis Report.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes do not alter the manner in which safety limits, limiting safety system setpoints or limiting conditions for operations are determined. The impact of increased AOTs, testing times, and allowing on-line testing and maintenance are expected to result in an overall improvement in safety because:

The longer AOTs for the master relays, logic cabinets, and analog channels will promote improved maintenance practices that will provide improved component performance, improved availability of the protection system, and a reduced number of spurious reactor trips and spurious actuation of safety equipment.

The longer AOTs and bypass times for the analog channels will provide additional time before being required to place the channel in trip. With the channel in trip, the logic required to cause a reactor trip or a safety system actuation is reduced to 1 of 2 (for 2 of 3 logic) and to 1 of 3 (for 2 of 4 logic). With the reduced logic requirement, the potential for a spurious actuation is increased. Leaving the channel in the bypass state for additional time does reduce the availability of signals to initiate component actuation for event mitigation when required, but as shown in this analysis, the impact on plant safety is small due to the availability of other signals or operator action to trip the reactor or cause component actuation.

The longer allowed outage times will provide plant operators additional flexibility in operating the plant. There will be additional time available before an action needs to be taken to shut down the plant or place a channel in the tripped state. This additional flexibility will facilitate prioritizing component repairs.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff

proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Brent L. Brandenburg, Esquire, 4 Irving Place, New York, New York 10003.

NRC Section Chief: Marsha Gamberoni.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: September 12, 2000.

Description of amendment request: The proposed amendments would revise the Technical Specifications 5.5.10, Item e.6, Steam Generator Tube Surveillance Program, by (1) removing the restriction on the lower tube sheet area rolling, (2) removing the limitation of only one reroll per steam generator tube, (3) eliminating the requirement that the reroll be one inch in depth, and (4) changing the revision number reference for Topical Report BAW–2303P, August 2000, ''OTSG Repair Roll Qualification Report,'' from Revision 3 to Revision 4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Duke Energy Corporation (Duke) has made the determination that this amendment request involves a No Significant Hazards Consideration by applying the standards established by NRC regulations in 10CFR50.92. This ensures operation of the facility in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change to the Technical Specifications incorporates Revision 4 of Topical Report BAW–2303P, OTSG Repair Roll Qualification Report. This document is also being submitted for NRC review and approval. This revision addresses, and is consistent with, the conclusions of all applicable Oconee licensing basis analyses and ensures that previously evaluated accidents are bounding. All the established acceptance criteria for the accidents analyzed in the Oconee licensing basis continue to be met. Therefore, no existing accident probabilities or consequences will be impacted.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated?

No. Revision 4 of BAW–2303P addresses limiting events for steam generator tube reroll repairs. These events include Main Steam Line Break, the Small Break Loss of Coolant Accident, and other transients on B&W Once-Through Steam Generators. For Oconee, the Main Steam Line Break is the limiting event. This revised topical report confirms the acceptability of the reroll repair techniques previously used at Oconee. As a result, no new failure modes are being created. BAW–2303P, as submitted for NRC review and approval, does not create the possibility of a new or different kind of accident.

3. Involve a significant reduction in a margin of safety?

No. Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. As part of the reactor coolant system pressure boundary, the steam generator tubes are unique in that they are also relied upon as a heat transfer surface between the primary and secondary systems, such that residual heat can be removed from the primary system. In addition, the steam generator tubes also isolate the radioactive fission products in the primary coolant from the secondary system. Finally, the steam generator tubes may be relied upon to maintain their integrity under conditions resulting from core damage severe accidents consistent with the containment objectives of preventing uncontrolled fission product release. The functions of the steam generator tubes will not be significantly affected by the changes proposed in this license amendment request. Implementation of BAW–2303P, Revision 4, as submitted for NRC review and approval, at Oconee will result in assurance that parameters affecting the integrity of the steam generator tubes continue to meet applicable safety analyses and industry codes and standards. Therefore, no safety margin will be significantly reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Anne W. Cottington, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20005.

NRC Section Chief: Richard L. Emch, Jr.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: July 26, 2000.

Description of amendment request: The amendments would revise the Technical Specifications (TS) Index to delete reference to the Bases since, in accordance with 10 CFR 50.36(a), the Bases are not a part of the TS. Future changes to the TS Bases will be evaluated per 10 CFR 50.59 and made under administrative control and reviews and in accordance with the proposed TS Bases control program as described in TS 5.5.14 of NUREG–1432, Revision 1, ''Standard Technical Specifications Combustion Engineering Plants.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments are administrative in nature and do not affect assumptions contained in plant safety analyses, the physical design and operation of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions. The Technical Specification BASES, per 10 CFR 50.36(a), are not part of the Technical Specifications. Changes to the TS BASES will be controlled by a plant procedure under administrative controls and reviews. Proposed changes to the TS BASES will be evaluated in accordance with 10 CFR 50.59 and made under the programmatic controls and requirements of the proposed Technical Specifications (TS) Bases Control Program. Therefore, the proposed changes do not increase the probability or consequences of accidents previously analyzed.

(2) Operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendments are administrative in nature. The proposed amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated since the proposed amendments will not change the physical plant or the modes of plant operation defined in the facility operating license. No new failure mode is introduced due to the administrative change, since the proposed change does not involve the addition or modification of equipment nor does it alter the design or operation of affected plant systems, structures, or components.

(3) Operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The operating limits and functional capabilities of the affected systems, structures, and components are unchanged by the proposed amendments. The BASES information, per 10 CFR 50.36(a), is not a part of the Technical Specifications. Changes to the TS BASES will be controlled by a plant procedure under administrative controls and reviews and made under the programmatic controls and requirements of the proposed Technical Specifications (TS) Bases Control Program. Proposed changes to the TS BASES will be evaluated in accordance with 10 CFR 50.59 and the TS BASES will be maintained

in an FPL-controlled document. Therefore, the proposed changes do not reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Section Chief: Richard P. Correia.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit No. 3, Citrus County, Florida

Date of amendment request: August 31, 2000.

Description of amendment request: This amendment would revise Improved Technical Specification (ITS) Table 3.3.18–1, ''Remote Shutdown System Instrumentation.'' The table would be updated to reflect plant modifications and procedure changes regarding placing and maintaining the plant in a safe shutdown condition if the control room becomes inaccessible.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant hazards consideration. In support of this conclusion, the following analysis is provided:

(1) Does not involve a significant increase in the probability or consequences of an accident previously analyzed.

The instruments listed in Table 3.3.18–1 are used to provide information on selected parameters to the operators that will allow them to place and maintain the plant in a safe shutdown condition in the event the control room becomes inaccessible. The proposed license amendment revises Table 3.3.18–1, Remote Shutdown System Instrumentation, to more accurately reflect the instruments that would be used by the operators to perform abnormal operating procedure AP–990, Shutdown from Outside the Control Room. The proposed license amendment also revises ITS Bases Section B 3.3.18 to add a table that identifies, by equipment tag number, the specific instruments used to satisfy the requirements of ITS 3.3.18 and ITS Table 3.3.18–1. The instruments identified in ITS Table 3.3.18–1 and ITS Bases Table B 3.3.18–1 are not initiators of any design basis accidents. The design functions of the Remote Shutdown System Instrumentation and the initial conditions for accidents that require the Remote Shutdown System will not be effected by the change. Therefore, the change will not increase the probability or consequences of an accident previously evaluated.

(2) Does not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed amendment involves no changes to the CR–3 design or to the functions or operation of the Remote Shutdown System. The proposed amendment will ensure that sufficient and appropriate instrumentation is available to allow the operators to place and maintain the plant in a safe shutdown condition in the event the control room becomes inaccessible. The proposed amendment will also add information to Bases Section B 3.3.18 that will ensure timely and accurate operability evaluations and entry into the appropriate Conditions and Required Actions of ITS 3.3.18. The proposed amendment will not create any new plant configurations different from those already analyzed. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does not involve a significant reduction in the margin of safety.

The proposed amendment revises Table 3.3.18–1, Remote Shutdown System Instrumentation, to more accurately reflect the instruments that would be used by the operators to perform a shutdown from outside the control room. The proposed amendment will revise ITS Bases Section B 3.3.18 to provide the operators with guidance that will assist them in making timely and accurate operability determinations and entries into the appropriate Conditions and Required Actions for ITS 3.3.18. The proposed changes will not reduce the ability of the Remote Shutdown System to monitor and control reactivity, RCS [reactor coolant system] pressure, core heat removal, or RCS inventory. Thus, the proposed amendment will not result in a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC—A5A, P.O. Box 14042, St. Petersburg, Florida 33733–4042.

NRC Section Chief: Richard P. Correia.

Pacific Gas and Electric Company, Docket No. 50–323, Diablo Canyon Nuclear Power Plant, Unit No. 2, San Luis Obispo County, California

Date of amendment requests: June 19, 2000.

Description of amendment requests: The proposed license amendment would revise Technical Specifications 5.5.9, ''Steam Generator (SG) Tube Surveillance Program,'' and 5.6.10, ''SG Tube Inspection Report,'' to add new surveillance and reporting requirements associated with a SG tube inspection and repair. The new requirements establish alternate repair criteria for axial primary water stress corrosion cracking at dented tube support plate intersections.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Examination of crack morphology for primary water stress corrosion cracking (PWSCC) at dented intersections has been found to show one or two microcracks well aligned with only a few uncorroded ligaments and little or no other inside diameter axial cracking at the intersection. This relatively simple morphology is conducive to obtaining good accuracy in nondestructive examination (NDE) sizing of these indications. Accordingly, alternate repair criteria (ARC) is established based on crack length and average and maximum depth within the thickness of the tube support plate (TSP).

The application of the ARC requires a Monte Carlo condition monitoring assessment to determine the as-found condition of the tubing. The condition monitoring analysis described in WCAP–15128 Revision 3 is consistent with NRC Generic Letter 95–05 requirements.

The application of the ARC requires a Monte Carlo operational assessment to determine the need for tube repair. The repair bases are obtained by projecting the crack profile to the end of the next operating cycle and determining the burst pressure and leakage for the projected profile using Monte Carlo analysis techniques described in WCAP–15128 Revision 3. The burst pressure and leakage is compared to the requirements in WCAP–15128 Revision 3. Separate analyses are required for the total crack length and the length outside the TSP due to differences in requirements. If the projected end of cycle (EOC) requirements are satisfied, the tube will be left in service.

A steam generator (SG) tube rupture event is one of a number of design basis accidents that are analyzed as part of a plant's licensing basis. A single or multiple tube rupture event would not be expected in a SG in which the ARC has been applied. The ARC requires repair of any indication having a maximum crack depth greater than or equal to 40 percent outside the TSP, thus limiting the potential length of a deep crack outside the TSP at EOC conditions and providing margin

against burst and leakage for free span indications.

For other design basis accidents such as a main steam line break, main feed line break, control rod ejection, and locked reactor coolant pump motor, the tubes are assumed to retain their structural integrity.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Implementation of the proposed SG tube ARC does not introduce any significant changes to the plant design basis. A single or multiple tube rupture event would not be expected in a SG in which the ARC has been applied. Both condition monitoring and operational assessments are completed as part of the implementation of ARC to determine that structural and leakage margin exists prior to returning SGs to service following inspections. If the condition monitoring requirements are not satisfied for burst or leakage, the causal factors for EOC indications exceeding the expected values will be evaluated. The methodology and application of this ARC will continue to ensure that tube integrity is maintained during all plant conditions consistent with the requirements of Regulatory Guide (RG) 1.121 and Revision 1 of RG 1.83. Therefore, a permanent ARC is justified.

In the analysis of a SG tube rupture event, a bounding primary-to-secondary leakage rate equal to the operational leakage limits in the Technical Specifications (TS), plus the leak rate associated with the double ended rupture of a single tube, is assumed. For other design basis accidents, the tubes are assumed to retain their structural integrity and exhibit primary-to-secondary leakage within the limits assumed in the current licensing basis accident analyses. Steam line break leakage rates from the proposed PWSCC ARC are combined with leakage rates from other approved ARC (*i.e.*, voltage-based ARC and W* ARC). The combined leakage rates will not exceed the limits assumed in the current licensing basis accident analyses.

The 40 percent maximum depth repair limit for free span indications provides a very low likelihood of free span leakage under design basis or severe accident conditions. Leakage from indications inside the TSP is limited by the constraint of the TSP even under severe accident conditions, and leakage behavior in a severe accident would be similar to that found acceptable by the NRC under approved ARC for axial outside diameter stress corrosion cracking (ODSCC) at TSP intersections. Therefore, even under severe accident conditions, it is concluded that application of the proposed ARC for PWSCC at dented TSP locations results in a negligible difference in risk of a tube rupture or large leakage event, when compared to current 40 percent repair limits or previously approved ARC.

DCPP continues to implement a maximum operating condition leak rate limit of 150 gallons per day per SG to preclude the potential for excessive leakage during all plant conditions.

The possibility of a new or different kind of accident from any previously evaluated is not created because SG tube integrity is maintained by inservice inspection, condition monitoring, operational assessment, tube repair, and primary-to-secondary leakage monitoring.

3. The proposed change does not involve a significant reduction in a margin of safety.

Tube repair limits provide reasonable assurance that tubes accepted for continued service without plugging or repair will exhibit adequate tube structural and leakage integrity during subsequent plant operation. The implementation of the proposed ARC is demonstrated to maintain SG tube integrity consistent with the criteria of draft NRC Regulatory Guide 1.121. The guidelines of RG 1.121 describe a method acceptable to the NRC staff for meeting General Design Criteria (GDC) 2, 4, 14, 15, 31, and 32 by ensuring the probability or the consequences of SG tube rupture remain within acceptable limits. This is accomplished by determining the limiting conditions of degradation of SG tubing, for which tubes with unacceptable cracking should be removed from service.

Upon implementation of the proposed ARC, even under the worst-case conditions, the occurrence of PWSCC at the tube support plate elevations is not expected to lead to a SG tube rupture event during normal or faulted plant conditions. The ARC involves a computational assessment to be completed for each indication left in service ensuring that performance criteria for tube integrity and leak tightness are met until the next scheduled outage. Therefore, a permanent ARC is justified.

As discussed below, certain tubes are excluded from application of ARC. Existing tube integrity requirements apply to these tubes, and the margin of safety is not reduced.

In addressing the combined loading effects of a loss-of-coolant (LOCA) and safe shutdown earthquake (SSE) on the SGs (as required by GDC 2), the potential exists for yielding of the TSP in the vicinity of the wedge groups, accompanied by deformation of tubes and a subsequent postulated in-leakage. Tube deformation could lead to opening of pre-existing tight through wall cracks, resulting in secondary to primary in-leakage following the event, which could have an adverse affect on the Final Safety Analysis Report (FSAR) results. Based on a DCPP analysis of LOCA and SSE, SG tubes located in wedge region exclusion zones are susceptible to deformation, and are excluded from application of ARC.

A DCPP tube stress analysis for feed line break (FLB)/steam line break (SLB) plus SSE loading determined that high bending stresses occur in certain SG tubes at the seventh TSP, because the stresses exceed the maximum imposed bending stress for existing test data (equal to approximately the lower tolerance limit yield stress). These tubes are located in rows 11 to 15 and 36 to 46, and are excluded from application of ARC.

Tube intersections that contain TSP ligament cracking are also excluded from application of ARC.

Based on the above, it is concluded that the proposed license amendment requires does not result in a significant reduction in margin [of safety] with respect to the plant safety analyses as defined in the FSAR or TS.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Section Chief: Stephen Dembek.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant (BFN), Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: August 28, 2000.

Description of amendment request: The proposed amendment would revise the Units 1, 2 and 3 Technical Specifications (TS) to incorporate Technical Specifications Task Force (TSTF) Nos.TSTF–71, TSTF–208, TSTF–222, TSTF–284, TSTF–258 and TSTF–364. TSTFs are changes that were submitted to the staff by the nuclear power industry TSTF that have generic applicability. A description of each of the six TSTFs follows: (1) TSTF–71, Revision 2, adds an example of the application of the Safety Function Determination Program (SFDP) to the Bases for Limiting Conditions for Operation (LCO) 3.0.6. (2) TSTF–208, Revision 0, extends the allowed time to reach MODE 2 in LCO 3.0.3 from 7 hours to 10 hours. The change is based on plant experience regarding the time needed to perform a controlled shutdown in an orderly manner. (3) TSTF–222, Revision 1, clarifies Improved Technical Specification (ITS) Section 3.1.4, Control Rod Scram Times, Surveillance Requirements (SRs) to better delineate the requirements for testing control rods following refueling outages and for control rods requiring testing due to work activities. (4) TSTF–258, Revision 4, revises TS Section 5.0, Administrative Controls, to delete specific TS staffing requirement provisions for Reactor Operators (ROs), eliminates TS details for working hour limits, clarifies requirements for the Shift Technical Advisor (STA) position, adds regulatory definitions for Senior ROs and ROs, revises the Radioactive Effluent Controls Program to be consistent with the intent of 10 CFR Part

20, deletes periodic reporting requirements for mainsteam relief valve openings, and revises radiological area control requirements for radiation areas to be consistant with those specified in 10 CFR 20.1601(c). (5) TSTF–284, Revision 3, modifies Improved ITS Section 1.4, Frequency, to clarify the usage of the terms ''met'' and ''performed'' to facilitate the application of SR Notes. Two new SR Examples, 1.4–5 and 1.4–6, are added to illustrate the application of the terms. (6) TSTF–364, Revision 0, revises Section 5.5.10, TS Bases Control Program, to reference 10 CFR 50.59 rather than ''unreviewed safety question.'' Also, editorial change WOG–ED–24, which substitutes ''require'' for ''involve'' in 5.5.10.b is made for consistency in usage.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analyses of the issue of no significant hazards consideration, which are presented below:

(1) TSTF–71, Revision 2.

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The change adds an example of SFDP use to facilitate the application of the TS, which serves to improve TS usefulness. The proposed change is an administrative clarification of existing requirements, and does not change TS requirements. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a physical alteration of the plant, add any new equipment, or require any existing equipment to be operated in a manner different from the present design. The proposed change will not impose any new or eliminate any existing requirements. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed change will not reduce a margin of safety because it has no effect on any safety analyses assumptions. This change is administrative in nature. For these reasons, the proposed amendment does not involve a significant reduction in the margin of safety.

(2) TSTF–208, Revision 0.

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change relaxes the Action time for LCO 3.0.3. The subject Action time is not an initiating condition for any accident previously evaluated and the accident analyses do not assume that equipment is out of service (requiring entry into LCO 3.0.3) prior to postulated events. Consequently, the extended action time does not significantly increase the probability of an accident previously evaluated. The consequences of an analyzed accident during the extended action time are the same as the consequences during the existing action time. As a result, the consequences of an accident previously evaluated are not significantly increased.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a physical alteration of the plant, add any new equipment, or require any existing equipment to be operated in a manner different from the present design. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed change will not reduce a margin of safety because it has no effect on any safety analyses assumptions. The TS defines specific time limits during which operation with degraded condition is permitted. In this case, actual plant experience indicates that the Action time in existing TS is too short to accomplish the specified action to be in MODE 2 in an orderly manner. Extension of the time would allow the reactor to be shutdown in a controlled manner while minimizing risks associated with the initiation of inadvertent transients. This maximizes reactor safety. For these reasons, the proposed amendment does not involve a significant reduction in the margin of safety.

(3) TSTF–222, Revision 1.

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is an administrative clarification of existing TS requirements which clarifies scram time testing requirements for control rods. The rewording and reformatting involves no technical changes to the existing TS. As such, there is no effect on initiators of analyzed events or assumed mitigation of accidents or transients. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a physical alteration of the plant, add any new equipment, or require any existing equipment to be operated in a manner different from the present design. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed change will not reduce a margin of safety because it has no effect on any safety analyses assumptions. This change is administrative in nature. For these reasons, the proposed amendment does not involve a significant reduction in the margin of safety.

(4) TSTF–258, Revision 4.

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is an administrative clarification of existing TS requirements which clarifies and modifies administrative controls in the areas of operator staffing requirements, working hour limits, STA position, Radioactive Effluent Controls Program, periodic reporting requirements for relief valve openings, and radiological control requirements. These TS revisions do not affect analysis inputs for analyzed accidents and transients. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a physical alteration of the plant, add any new equipment, or require any existing equipment to be operated in a manner different from the present design. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed changes are administrative type revisions and do not reduce a margin of safety because they have no effect on any safety analyses assumptions. For these reasons, the proposed amendment does not involve a significant reduction in the margin of safety.

(5) TSTF–284, Revision 3.

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is an administrative clarification of existing requirements. The change clarifies the TS terminology to facilitate the use and application of Surveillance Requirement Notes to improve TS use. Also, two additional examples of the application of Surveillance Requirement Notes are incorporated. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a physical alteration of the plant, add any new equipment, or require any existing equipment to be operated in a manner different from the present design. The proposed change will not impose any new or eliminate any existing requirements. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed change will not reduce a margin of safety because it has no effect on any safety analyses assumptions. This change is administrative in nature.

For these reasons, the proposed amendment does not involve a significant reduction in the margin of safety.

(6) TSTF–364, Revision 0.

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is an administrative modification of existing TS requirements for the TS Bases change program to simply reference changes pursuant to 10 CFR 50.59 rather than ''unreviewed safety question''. This change is administrative and has no affect on the current review and approval process for Final Safety Analyses Report and Bases changes. As such, there is no effect on initiators of analyzed events or assumed mitigation of accidents or transients. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not involve a physical alteration of the plant, add any new equipment, or require any existing equipment to be operated in a manner different from the present design. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed change modifies [sic] is an administrative modification of existing TS requirements for the TS FSAR and Bases change program to simply reference changes pursuant to 10 CFR 50.59 rather than ''unreviewed safety question.'' This change is administrative and has no affect on the current review process for FSAR and Bases changes, and will not reduce a margin of safety because it has no effect on any safety analyses assumptions.

For these reasons, the proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: August 31, 2000 (TS 00–05).

Brief description of amendments: The proposed amendment would revise the Sequoyah Nuclear Plant (SQN) Technical Specifications (TSs). The revision would relocate certain specifications related to reactivity control that are not required to be contained in the TSs by NRC regulations. These specifications include TSs 3.1.2.1 and 3.1.2.2 for boration flow paths, TSs 3.1.2.3 and 3.1.2.4 for boration charging pumps, TSs 3.1.2.5 and 3.1.2.6 for borated water sources, TS 3.1.3.3 for position indication systems during shutdown, and TS 3.10.5 for special test exceptions for the position indication system. These specifications will be relocated in their entirety to the SQN Technical Requirements Manual without changing the requirements currently contained in the TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Tennessee Valley Authority (TVA), the licensee, has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision relocates the boration specifications and one rod position indication system specification without a change to the requirements and deletes a special test exception for rod position indication that is no longer applicable to SQN. Relocation to the TRM continues to provide an acceptable level of applicability to plant operation and requires revisions to be processed in accordance with the provisions in 10 CFR 50.59. Evaluations of revisions in accordance with 10 CFR 50.59 will continue to ensure that these specifications adequately control the functions for boration and rod position indication systems to maintain safe operation of the plant. The boration systems and the rod position indication system is not postulated to be the initiator of a design basis accident. Since there are no changes to these functions and their operation will remain the same, the probability of an accident is not increased by relocating these requirements to the TRM. Additionally, the accident mitigation capability and offsite dose consequences associated with accidents will not change because these functions will not be altered by the proposed relocation. Therefore the consequences of an accident are not increased by this relocation to the TRM and the control of revisions to these specifications in accordance with 10 CFR 50.59.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed revision will not alter the functions for the boration or the rod position indication systems such that accident potential would be changed. The location of these specifications in the TRM and the performance of revisions in accordance with 10 CFR 50.59 will continue to maintain acceptable operability requirements. Therefore, the possibility of an accident of a new or different kind is not created by the proposed relocation and deletion.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed specification relocation and special test deletion will not affect plant setpoints or functions that maintain the margin of safety. This is based on the relocation to the TRM continuing to maintain the same level of operability requirements and surveillance testing to adequately ensure functionality of the boration and rod position indication systems. Control of TRM requirements in accordance with 10 CFR 50.59 will ensure that revisions to these functions will not inappropriately impact the health and safety of the public without prior review and approval by NRC. Therefore, the proposed relocation and deletion is acceptable and will not reduce the margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: May 2, 2000, as supplemented by letter dated August 30, 2000.

Brief description of amendment: The proposed license amendment would obtain approval from the Nuclear Regulatory Commission (NRC) of changes to the Comanche Peak Steam Electric Station, Units 1 and 2 (CPSES)

Security Plans prior to their implementation. Prior approval is being requested from the NRC, in accordance with the requirements of 10 CFR 50.54(p)(1), because some of the changes could have the potential of reducing the effectiveness of the security plans.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The proposed changes involving Security activities, do not reduce the ability for the Security organization to prevent radiological sabotage and therefore does not increase the probability or consequences of a radiological release previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed changes involve functions of the Security organization concerning intrusion detection, material search requirements, alarm response and compensation, and vehicle control. Analysis of the proposed changes has not indicated nor identified a new or different kind of accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No

Analysis of the proposed changes show that the proposed changes affect only the functions of the Security organization and have no impact upon nor cause a significant reduction in margin of safety for plant operation. The failure points of key safety parameters are not affected.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036

NRC Section Chief: Robert A. Gramm

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: September 15, 2000 (WO 00–0036).

Description of amendment request: The proposed amendment would revise footnotes (b) and (c) to Table 1.1–1, ''Modes,'' of the Wolf Creek Technical Specifications, and allow one reactor pressure vessel (RPV) head closure bolt to not be fully tensioned in Mode 4 (hot shutdown) and Mode 5 (cold shutdown). Each RPV head closure bolt is composed of a stud, nut, and washer, and the bolts attach the vessel head to the vessel body. The proposed revisions would allow the plant (1) to be in Modes 4 and 5 with only 53 of 54 RPV head closure bolts fully tensioned (*i.e.,* to allow one head closure bolt to not be fully tensioned), and (2) to operate with one RPV head closure bolt less than fully tensioned. The proposed revision to footnote (b) requires the proposed revision to the definition of refueling (*i.e.,* footnote (c) from the current ''one or more'' RPV head closure bolts detensioned to the proposed ''two or more'' RPV head closure bolts detensioned). In refueling, the RPV head closure bolts are detensioned and removed from the vessel body, and the RPV head is removed from the vessel. The licensee committed to the following program before operating with a not fully tensioned RPV head closure bolt: (1) The circumstances for the closure bolt not being fully tensioned will be reviewed to determined that the analysis in the application is still applicable, (2) the RPV will not be subject to hydrostatic test conditions before the closure bolt is returned to service, and (3) the plant heatup rate will be held to 50°F per hour (half the normal rate) until the closure bolt is returned to service.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Overall protection system performance will remain within the bounds of the accident analyses, since no hardware changes are proposed. Since the stresses [in the RPV head and body] remain within [the American Society of Mechanical Engineers Boiler and Pressure Vessel (ASME)] Code allowables, the proposed change will not affect the probability of any event initiators nor will the proposed change affect the ability of any safety related equipment to perform its intended function. There will be no degradation in the performance of nor an increase in the number of challenges imposed on safety related equipment assumed to function during an accident situation.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no hardware changes nor are there any changes in the method by which any safety related plant system performs it[s] safety function. The method of plant operation is unaffected. Leakage would be precluded since, as noted in the evaluation [in the application dated September 15, 2000,] adequate compression [of the RPV head closure bolts] remains. However, if leakage were to result from having less than the total number of closure studs fully tensioned it would be detected by an increase in the temperature on the leak-off line from the annular space between the inner and outer vessel head o-rings. That temperature increase would be detected by installed temperature indicators and alarmed in the control room. Any leakage would be detected as an increase in RCS [reactor coolant system] identified LEAKAGE. Since stresses remain within Code allowables, no new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of this change.

Therefore, the proposed change will not create a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

As indicated in Section 4.0 above [of the application dated September 15, 2000,] ASME Section III stress limits for effected components are not exceeded. The evaluations indicate that the reactor vessel will continue to meet ASME Code allowable stress criteria with a single untensioned reactor vessel closure stud, or with a single closure stud which fails in service. The proposed change does not alter nor exceed the acceptance criteria for any analyzed event. There will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions.

Therefore, the proposed change to the Technical Specifications do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration. The licensee's reference to ''closure studs'' in the above not significant hazards consideration is a reference to the ''closure bolts'' in the proposed amendment.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Stephen Dembek.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: September 7, 2000.

Description of amendment request: The amendments revise Surveillance Requirement 3.8.1.9.a by adding a note that states the upper limits on frequency and voltage are not required to be met for the annual test of the Keowee Hydro Units until the NRC issues an amendment that removes the note in response to an amendment request to be submitted no later than April 5, 2001.

Date of publication of individual notice in ***Federal Register:*** September 19, 2000 (65 FR 56600).

Expiration date of individual notice: October 3, 2000, for comments; October 19, 2000, for hearings.

Niagara Mohawk Power Corporation, Docket No. 50–410, Nine Mile Point Nuclear Station Unit No. 2, Oswego County, New York

Date of application for amendment: July 14, 2000.

Brief description of amendment request: The proposed amendment would revise License Condition 2.c.(10), ''Additional Condition 1,'' which was imposed by Amendment No. 91 dated February 15, 2000. License Condition 2.c.(10) defines the meaning of implementation of Improved Technical Specifications and specifies that implementation be completed by August 31, 2000. The licensee has proposed to revise the implementation date from August 31, 2000, to December 31, 2000.

Date of publication of individual notice in ***Federal Register:*** July 27, 2000 (65 FR 46183).

Expiration date of individual notice: August 28, 2000.

Tennessee Valley Authority, Docket No. 50–390 Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendments: June 7, as supplemented June 23, and August 24, 2000.

Brief description of amendment: Changes to Facility Operating License and Technical Specifications to reflect an increase in allowable thermal power from 3411 to 3459 megawatts.

Date of publication of individual notice in the ***Federal Register:*** September 7, 2000 (65 FR 54322).

Expiration date of individual notice: October 10, 2000.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, http://www.nrc.gov (the Electronic Reading Room).

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson, Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: November 30, 1999.

Brief description of amendment: This amendment revises the testing requirements in Technical Specification 5.5.11, ''Ventilation Filter Testing Program (VFTP),'' in response to Generic Letter 99–02, ''Laboratory Testing of Nuclear-Grade Activated Charcoal.''

Date of issuance: September 14, 2000.

Effective date: September 14, 2000.

Amendment No.: 189.

Facility Operating License No. DPR–23. Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 29, 1999 (64 FR 73087).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 14, 2000.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina.

Date of application for amendment: June 7, 2000, as supplemented on August 23, 2000.

Brief description of amendment: This amendment revises the surveillance test intervals and allowed outage times for Engineered Safety Features Actuation System (ESFAS) instrumentation in Technical Specification (TS) 3/4.3.2. It also revises the reactor trip system instrumentation requirements in TS 3/4.3.1 associated with implementing the ESFAS relaxations.

Date of issuance: September 13, 2000.

Effective date: September 13, 2000.

Amendment No.: 101.

Facility Operating License No. NPF–63. Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 12, 2000 (65 FR 43044).

The supplemental submittal dated August 23, 2000, provided clarifying information only, and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 13, 2000.

No significant hazards consideration comments received: No.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendments: February 23, 2000, as supplemented by letters dated June 19 and July 17, 2000.

Brief description of amendments: The amendments changed Technical Specification (TS) 3/4.6.K to revise the reactor pressure-temperature (P–T) limits; changed TSs 1.0 and 3/4.12.C to delete a special test exception that allowed the hydrostatic test to be performed above 212 degrees Fahrenheit while in Mode 4; and added a condition to the Unit 2 and 3 licenses to specify expiration dates for the P–T limits.

Date of issuance: September 19, 2000.

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 179 and 174.

Facility Operating License Nos. DPR–19 and DPR–25: The amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** April 5, 2000 (65 FR 17911).

The June 19 and July 17, 2000, letters are within the scope of the original notice and did not change the original no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 19, 2000.

No significant hazards consideration comments received: No.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendments: August 3, 1999, as supplemented by letter dated February 25, 2000.

Brief description of amendments: The amendments revised Technical Specification (TS) Section 2.1.B to reflect a change to the Minimum Critical Power Ratio for Unit 2; added an approved analytical method to TS Section 6.9.A.6 for Units 2 and 3 for use in determining core operating limits; and added conditions to the Unit 2 and 3 licenses to limit the maximum rod average burnup for any rod to 60 GWD/MTU until the staff has completed an environmental assessment supporting a greater limit.

Date of issuance: September 21, 2000.

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 180 and 175.

Facility Operating License Nos. DPR–19 and DPR–25: The amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** September 8, 1999 (64 FR 48859). The February 25, 2000, submittal provided additional clarifying information that did not change the initial proposed no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in an Environmental Assessment dated September 19, 2000, and a Safety Evaluation dated September 21, 2000.

No significant hazards consideration comments received: No.

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: February 29, 2000, as supplemented by letter dated July 5, 2000.

Brief description of amendments: The amendments revised the Technical Specifications Table 3.3.2–1, Engineered Safety Feature Actuation System Instrumentation, Function 6.f, Auxiliary Feedwater Pump Suction Pressure-Lo.

Date of issuance: September 13, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 193 and 174.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 23, 2000 (65 FR 51350).

The supplement dated July 5, 2000, provided clarifying information that did not change the scope of the February 29, 2000, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 13, 2000.

No significant hazards consideration comments received: No.

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: January 6, 2000, as supplemented by letter dated July 20, 2000.

Brief description of amendments: The amendments revised the Technical Specifications (TS) 3.3.1, ''Reactor Trip System Instrumentation;'' TS 3.3.2, ''Engineered Safety Features Actuation System Instrumentation;'' TS 3.3.5, ''Loss of Power Diesel Generator Start Instrumentation;'' and TS 3.3.6, ''Containment Purge and Exhaust Isolation Instrumentation.''

Date of issuance: September 18, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 194/175.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 22, 2000 (65 FR 15378).

The supplement dated July 20, 2000, provided clarifying information that did not change the scope of the January 6, 2000, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 18, 2000.

No significant hazards consideration comments received: No.

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: June 29, 2000, as supplemented by letters dated July 27, and August 10, 2000. Other related information was submitted by letters dated April 10, April 17, and June 19, 2000.

Brief description of amendments: The amendments revised the Technical Specifications (TS) to reference the Westinghouse Best Estimate Large Break Loss-of-Coolant Accident analysis methodology described in WCAP–12945–P–A, March 1998. The changes also address corresponding TS Bases changes.

Date of issuance: September 22, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 195 and 176.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 23, 2000 (65 FR 51349).

The supplements dated April 10, April 17, June 19, July 27, and August 10, 2000, provided clarifying information that did not change the scope of the June 29, 2000, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 22, 2000.

No significant hazards consideration comments received: No.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: April 26, 1999; supplemented May 15, July 26, and August 23, 2000.

Brief description of amendments: The amendments revised various provisions of the Technical Specifications and Final Safety Analysis Report related to the steam generator tube loads following a main steam line break and runout protection for the turbine-driven emergency feedwater pump.

Date of Issuance: September 18, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 315, 315, & 315.

Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: Amendments revised the Technical Specifications and Final Safety Analysis Report.

Date of initial notice in ***Federal Register:*** May 19, 1999 (64 FR 27320).

The supplements dated May 15, July 26, and August 23, 2000, provided clarifying information that did not change the scope of the April 26, 2000, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 18, 2000.

No significant hazards consideration comments received: No.

Energy Northwest, Docket No. 50–397, WNP–2, Benton County, Washington

Date of application for amendment: April 13, 2000, as supplemented by letter dated May 15, 2000.

Brief description of amendment: The amendment revised Surveillance Requirements 3.3.1.1.10 for Function 8 of Table 3.3.1.1–1 and 3.3.4.1.2.a. for reactor protection system and end of cycle recirculation pump trip instrumentation of the WNP–2 technical specifications. The amendment extends the frequency of these surveillance requirements from 18 months to 24 months.

Date of issuance: September 15, 2000.

Effective date: September 15, 2000, to be implemented within 30 days from the date of issuance.

Amendment No.: 168.

Facility Operating License No. NPF–21: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 14, 2000 (65 FR 37423).

The May 15, 2000, supplemental letter provided clarifying information, did not expand the scope of the application as originally noticed and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 15, 2000.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: July 28, 1999, as supplemented on June 6, 2000.

Brief description of amendment: This amendment revised the ultimate heat sink (UHS) average water temperature from 85 degrees Fahrenheit (°F) to ≤90 °F and permits plant operations in Operating Modes 1 through 4 with an average water temperature of ≤90 °F.

Date of issuance: September 12, 2000.

Effective date: Immediately, to be implemented within 90 days.

Amendment No.: 242.

Facility Operating License No. NPF–3: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 25, 1999 (64 FR 46438). The June 6, 2000, submittal provided additional clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 12, 2000.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: September 7, 1999, supplemented July 14, 2000.

Brief description of amendment: This amendment revises Technical Specification 3/4.3.2.1, Safety Features Actuation System Instrumentation Trip Setpoints, to remove the ''Trip Setpoint'' values for Instrument String Functional Unit ''b'', Containment Pressure-High, and Functional Unit ''c'', Containment Pressure-High-High, and also modifies the ''Allowable Values'' entry for these same Functional Units, consistent with updated calculations using current setpoint methodology. The changes also revise Limiting Conditions for Operation (LCO) 3.3.2.1, and Bases 3/4.3.1 and 3/4.3.2 to reflect the removal of the ''Trip Setpoint'' values for these Functional Units.

Date of issuance: September 14, 2000.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment No.: 243.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 15, 1999 (64 FR 70086).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 14, 2000.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of application for amendment: August 4, 1999, and as supplemented by letter dated August 7, 2000.

Brief description of amendment: This amendment revised Technical Specification 3.9.1, ''Refueling Equipment Interlocks,'' by introducing an optional operator action when one or more required refueling equipment interlocks are inoperable. The new operator action permits continued in-vessel fuel movement under specific administrative controls.

Date of issuance: September 12, 2000.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment No.: 116.

Facility Operating License No. NPF–58: This amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 25, 1999 (64 FR 46439).

The August 7, 2000, supplement contained clarifying information that was within the scope of the original application and **Federal Register** notice and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 12, 2000.

No significant hazards consideration comments received: No.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: September 16, 1999, as supplemented

by letters dated May 3 and June 29, 2000.

Brief description of amendment: To allow an increase in the spent fuel pool (SFP) storage capacity by replacing fuel racks in the ''B'' SFP with new high-density fuel racks.

Date of issuance: September 13, 2000.

Effective date: September 13, 2000.

Amendment No.: 193.

Facility Operating License No. DPR–31: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 8, 1999 (64 FR 68702).

The May 3 and June 29, 2000 supplements provided clarifying information and did not affect the initial no significant hazards determination.

The Commission's related evaluation of the amendment is contained in an Environmental Assessment dated September 5, 2000 and in a Safety Evaluation dated September 13, 2000.

No significant hazards consideration comments received: No.

GPU Nuclear, Inc. et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: June 18, 1999, as supplemented on June 22 and December 10, 1999, and February 10, and May 2, 2000.

Brief description of amendment: The amendment revised the Technical Specifications to reflect the installation of additional spent fuel pool storage racks. The additional new racks will provide 390 additional spent fuel assembly storage locations.

Date of issuance: September 15, 2000.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 215

Facility Operating License No. DPR–16: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 17, 1999 (64 FR 44757).

The supplemental letters dated June 22 and December 10, 1999, and February 10 and May 2, 2000, did not affect the proposed finding of no significant hazards consideration, and was within the scope of the amendment application as noticed.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated September 15, 2000.

No significant hazards consideration comments received: No.

North Atlantic Energy Service Corporation, et al., Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: February 18, 2000, as superseded by a letter dated June 20, 2000.

Description of amendment request: The amendment changes the Seabrook Station Technical Specifications to provide operational flexibility during the shutdown modes of operation. These enhancements include: (1) The ability to have a standby Safety Injection (SI) pump available during Reactor Coolant System (RCS) reduced inventory conditions with the RCS pressure boundary intact; (2) realigning a footnote to clarify the allowance of an inoperable SI pump to be energized for testing or filling accumulators; (3) allowance for an additional charging pump to be made capable of injection during pump-swap operations; (4) recognition that a substantial vent area exists for cold overpressure protection when the reactor vessel head is on and the studs are fully detensioned; (5) limit maneuvering the plant beyond Hot Shutdown when one charging pump is operable; and (6) establishes a new value for the open permissive interlock associated with the Residual Heat Removal System suction isolation valves.

Date of issuance: September 11, 2000.

Effective date: As of its date of issuance, and shall be implemented within 60 days.

Amendment No.: 74.

Facility Operating License No. NPF–86: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 9, 2000 (65 FR 48752).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 11, 2000.

No significant hazards consideration comments received: No.

North Atlantic Energy Service Corporation, et al., Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: December 3, 1999.

Description of amendment request: The amendment changes the Technical Specifications by incorporating reference to the American Society for Testing and Materials (ASTM) Standard D3803–1989, ''Standard Test Method for Nuclear-Grade Activated Charcoal,'' as the test protocol for charcoal filter laboratory testing. In addition, there is a change to Surveillance Requirement 4.7.6.1d.5) and 4.9.12d.4) specifying a minimum required heater output based on design rated voltage.

Date of issuance: September 19, 2000.

Effective date: As of its date of issuance, and shall be implemented within 60 days.

Amendment No.: 75

Facility Operating License No. NPF–86: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 26, 2000 (65 FR 4282).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 19, 2000.

No significant hazards consideration comments received: No.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: February 1, 2000, as supplemented on June 1 and July 13, 2000.

Brief description of amendment: The amendment modifies Technical Specification (TS) 3.0.3 to state that this specification is not applicable in MODES 5 or 6. The amendment also makes various changes to TSs 3/4.1 ''Reactor Coolant System—Coolant Loops and Coolant Recirculation'' and 3/4.9.8, ''Refueling Operations—Shutdown Cooling and Coolant Circulation.'' In addition, various corrections and formats are revised to achieve consistency of the structure and wording of the TSs. The Bases for the affected TSs have also been revised accordingly.

Date of issuance: September 14, 2000.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 249.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 31, 2000 (65 FR 46748).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 14, 2000.

No significant hazards consideration comments received: No.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: January 18, 1999, and supplemented by letters dated April 5 and December 21, 1999; and May 2 and August 10, 2000.

Brief description of amendment: The amendment revises the Technical Specifications (TSs) and the Final Safety Analysis Report for Millstone 3 to allow an entire reactor core to be offloaded to the spent fuel pool (SFP) and an increase in the maximum design basis normal SFP water temperature limit from 140 °F to 150 °F during planned refueling outages. The increase in maximum design basis normal SFP water temperature up to 150 °F affects certain Fuel Building area TS temperature limits that require a revision to the TSs.

Date of issuance: September 12, 2000.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 182.

Facility Operating License No. NPF–49: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 10, 1999 (64 FR 11962).

The letters dated April 5 and December 21, 1999, and May 2, and August 10, 2000, provided clarifying information and did not change the staff's initial proposed no significant hazards consideration determination or expand the scope of the application as published in the **Federal Register**.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated September 12, 2000.

No significant hazards consideration comments received: No.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: February 3, 2000

Brief description of amendment: The amendment changes the Millstone Unit No. 3 Final Safety Analysis Report to show that the configuration of valves 3CHS*V61 and 3CHS*V62 takes exception to the American Society of Mechanical Engineers Section III code requirements for class 2 components.

Date of issuance: September 15, 2000.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 183.

Facility Operating License No. NPF–49: Amendment revised the Final Safety Analysis Report.

Date of initial notice in ***Federal Register:*** June 28, 2000 (65 FR 39958).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 15, 2000.

No significant hazards consideration comments received: No.

PECO Energy Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, (LGS) Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: November 5, 1999, as supplemented July 17, 2000.

Description of amendment request: The amendments make changes to Technical Specifications Sections 4.6.5.3.b.2 and 4.6.5.3.c, ''Standby Gas Treatment System,'' 4.6.5.4.b.2 and 4.6.5.4.c, ''Reactor Enclosure Recirculation System,'' and 4.7.2.c.2 and 4.7.2.d, ''Control Room Emergency Air System.''

Date of Issuance: September 8, 2000.

Effective Date: September 8, 2000.

Amendment Nos.: 144 & 106.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of Initial notice in ***Federal Register:*** January 26, 2000 (65 FR 4287)

The July 17, 2000, letter provided clarifying information that did not change the initial no significant hazards consideration determination or expand the scope of the original **Federal Register** Notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 8, 2000.

No significant hazards consideration comments received: No.

PECO Energy Company, Docket No. 50–352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: May 15, 2000, as supplemented August 10, 2000.

Brief description of amendment: The amendment revises the pressure-temperature limit curves.

Date of issuance: September 15, 2000.

Effective date: As of date of issuance, to be implemented within 30 days.

Amendment No.: 145.

Facility Operating License No. NPF–39. This amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 12, 2000 (65 FR 43051).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 15, 2000. The August 10, 2000, letter provided clarifying information that did not change the initial no significant hazard consideration determination or expand the scope of the original **Federal Register** notice.

No significant hazards consideration comments received: No.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: April 20, 2000 (PCN–503), and supplemented by letter dated June 6, 2000.

Brief description of amendments: The amendments revise TS 5.5.2.5, ''Reactor Coolant Pump Flywheel Inspection Program'' by changing the volumetric examination frequency of the upper flywheel on each of the primary reactor coolant pump motors from a 3-year to a 10-year cycle.

Date of issuance: September 8, 2000.

Effective date: September 8, 2000, to be implemented within 30 days of issuance.

Amendment Nos.: Unit 2—170; Unit 3—161.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 17, 2000 (65 FR 31360). The supplemental letter dated June 6, 2000, provided clarifying information that was within the scope of the April 20, 2000, application and the **Federal Register** notice and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 8, 2000.

No significant hazards consideration comments received: No.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: September 12, 2000.

Brief description of amendments: The amendments revise TS 3.6.6.1, ''Containment Spray and Cooling Systems,'' to change the allowed outage time (AOT) for a single inoperable train of the containment spray system from 72 hours to 7 days. Also, the combined AOT that appears in both Conditions A and C of TS 3.6.6.1 is revised from 10 days to 14 days.

Date of issuance: September 12, 2000.

Effective date: September 12, 2000, to be implemented within 30 days of issuance.

Amendment Nos.: Unit 2—171; Unit 3—162.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 3, 2000 (65 FR 25769).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 12, 2000.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: March 6, 2000, as supplemented by letter dated July 7, 2000.

Brief description of amendments: The amendments revised Technical Specification (TS) 3.9.4, ''Containment Penetration,'' allowing the equipment hatch to be open during core alteration and/or during movement of irradiated fuel within the containment, provided the capability for closure is maintained.

Date of issuance: September 11, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 115 and 93.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 28, 2000 (65 FR 39961), July 20, 2000 (65 FR 45115). The supplemental letter dated July 7, 2000, provided clarifying information that did not change the scope of the March 6, 2000, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 11, 2000.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–3a0, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: July 10, 2000 (TS 00–08).

Brief description of amendment: Regarding the need to conduct channel operational tests within 12 hours prior to physics tests and the placing of a reactor trip instrumentation channel used in physics tests in a bypassed condition instead of a tripped condition.

Date of issuance: September 13, 2000.

Effective date: September 13, 2000.

Amendment No.: 28.

Facility Operating License No. NPF–90: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 9, 2000 (65 FR 48759).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 13, 2000.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 23, 2000, and supplements dated July 21 and 26, 2000.

Brief description of amendment: The amendment revises TS 3.9.4, ''Containment Penetrations,'' to allow containment penetrations (with direct access to the outside atmosphere) to be unisolated under administrative controls during refueling operations with core alterations or irradiated fuel movement inside containment. The amendment (1) revises the note in the Limiting Condition for Operation 3.4.9 for containment penetrations that may be unisolated under administrative controls, deleting the reference to penetrations P–63 and P–98, and (2) deletes the exception for penetrations P–63 and P–98 in Surveillance Requirement 3.9.4.1. In addition, there are format and editorial corrections to TS 3.8.3, ''Diesel Fuel Oil, Lube Oil, and Start Air,'' and TS 5.2.2.b, ''Administrative Controls,'' to correct errors issued in Amendment No. 123, issued March 31, 1999.

Date of issuance: September 12, 2000.

Effective date: September 12, 2000, to be implemented within 30 days of the date of issuance, including the completion of the administrative procedures that ensure that open containment penetrations, with direct access to the outside atmosphere during refueling operations with core alterations and irradiated fuel movement inside containment, will be promptly closed in the event of a fuel handling accident inside containment.

Amendment No.: 135.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 12, 2000 (65 FR 43053). The July 21 and 26, 2000, supplements provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 12, 2000.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 28th day of September 2000.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–25377 Filed 10–3–00; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Janice Reid, Staffing Policy Division, Employment Service (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management publishes this monthly notice to update appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213. Individual authorities established or revoked under Schedules A and B between August 1, 2000, and August 31, 2000, appear in the following listing. A consolidated listing of all authorities as of June 30 is published annually.

Schedule A

No Schedule A authorities were established or revoked during August 2000.

Schedule B

The following Schedule B authority was amended effective August 17, 2000.

Schedule B 213.3209

''(a) Not to exceed six interdisciplinary positions for the Airpower Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Initial appointments are made not to exceed 3 years, with an option to renew or extend the appointments in increments of 1, 2, or 3 years indefinitely thereafter.''

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 00–25443 Filed 10–3–00; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, D.C. 20549.

Extension:

Rule 17Ad–10; SEC File No. 270–265; OMB Control No. 3235–0273.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

• Rule 17Ad–10 Prompt Posting of Certificate Detail to Master Securityholder Files; Maintenance of Accurate Securityholder Files and Control Book; and Retention of Certificate Detail

Rule 17Ad–10, 17 CFR 240.17Ad–10, under the Securities Exchange Act of 1934, requires approximately 1,093 registered transfer agents to create and maintain minimum information on securityholders' ownership of an issue of securities for which it performs transfer agent functions, including the purchase, transfer and redemptions of securities. In addition, the rule also requires transfer agents that maintain securityhodler records to keep certificate detail that has been cancelled from those records for a minimum of six years and to maintain and keep current an accurate record of the number of shares or principle dollar amount of debt securities that the issuer has authorized to be outstanding (a ''control book''). These recordkeeping requirements assist in the creation and maintenance of accurate securityholder records, the ability to research errors, and ensure the transfer agent is aware of the number of securities that are properly authorized by the issuer, thereby avoiding over issuance.

The staff estimates that the average number of hours necessary for each transfer agent to comply with Rule 17 Ad–10 is approximately 20 hours per year, totaling 21,860 hours industrywide. The average cost per hour is approximately $20 per hour, with the industry-wide cost estimated at approximately $437,200. However, information required by Rule 17Ad–10 generally already is maintained by registered transfer agents. The amount of time devoted to compliance with Rule 17Ad–10 varies according to differences in business activity.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W. Washington, DC 20549.

Dated: September 26, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–25422 Filed 10–3–00; 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.

Extensions: Rule 6c–7 SEC File No. 270–269; OMB Control No. 3235–0276; Rule 11a–2; SEC File No. 270–267; OMB Control No. 3235–0272.

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 requests for approval of extension of the previously approved collection of information discussed below.

Rule 6c–7 [17 CFR 270.6c–7] under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''1940 Act'') provides exemption from certain provisions of Sections 22(e) and 27 of the 1940 Act for registered separate accounts offering variable annuity contracts to certain employees of Texas institutions of higher education participating in the Texas Optional Retirement Program. There are approximately 82 registrants governed by Rule 6c–7. The burden of compliance with Rule 6c–7, regarding obtaining from a purchaser, prior to or at the time of purchase, a signed document acknowledging the restrictions on redeemability imposed by Texas law, is estimated to be approximately 3 minutes per response for each of 2,649 purchasers annually, for a total annual burden of 132.45 hours.

Rule 6c–7 requires that the separate account's Registration Statement under the Securities Act of 1933 (15 U.S.C. 77a *et seq.)* (''1933 Act'') include a representation that Rule 6c–7 is being relied upon and is being complied with. This requirement enhances the Commission's ability to monitor utilization of and compliance with the rule. There are no recordkeeping requirements with respect to Rule 6c–7.

Rule 11a–2 [17 CFR 270.11a–2] permits certain registered insurance company separate accounts, subject to certain conditions, to make exchange offers without prior approval by the Commission of the terms of those offers. There are approximately 649 registrants governed by Rule 11a–2, with an estimated compliance time of 15 minutes per registrant, for a total annual burden of 162.25 hours.

Rule 11a–2 requires disclosure, in certain registration statements filed pursuant to the 1933 Act, of any administrative fee or sales load imposed in connection with an exchange offer. The information resulting from the disclosure is used by the Commission to monitor the terms and conditions of such exchange offers. There are no recordkeeping requirements with respect to this rule.

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 or forms. With regard to Rule 6c–7, the Commission does not include in the estimate of average burden hours the time preparing registration statement and sales literature disclosure regarding the restrictions on redeemability imposed by Texas law. The estimate of burden hours for completing the

relevant registration statements are reported on the separate PRA submissions for those statements (see the separate PRA submissions for Form N–3 [17 CFR 274.11b] and Form N–4 [17 CFR 274.11c]). With regard to Rule 11a–2, the Commission includes the estimate of burden hours in the total number of burden hours estimated for completing the relevant registration statements and reported on the separate PRA submissions for those statements (see the separate PRA submissions for Form N–3 and Form N–4).

Complying with the collection of information requirements of the rules is necessary to obtain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: September 25, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–25423 Filed 10–3–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43380; File No. 265–22]

Advisory Commission on Market Information

AGENCY: Securities and Exchange Commission.

ACTION: Supplemental notice.

SUMMARY: This notice supplements the Securities and Exchange Commission's notice of intent to establish the Securities and Exchange Commission Advisory Committee on Market Information (''Committee''), and intent to hold the first Committee meeting on October 10, 2000 (65 FR 58135).

ADDRESSES: Written comments should be submitted in triplicate and should refer to File No. 265–22. Comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609.

FOR FURTHER INFORMATION CONTACT: Anitra Cassas, Attorney, Division of Market Regulation, at 202–942–0089; Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–1001.

SUPPLEMENTARY INFORMATION: On September 20, 2000, the Commission issued a notice that the first meeting of the Securities and Exchange Commission Advisory Committee on Market Information is to be held on October 10, 2000, in the William O. Douglas Room at the Commission's main offices, 450 Fifth Street, N.W., Washington, DC, beginning at 1 p.m. (Securities Exchange Act Release No. 43313, September 20, 2000). The meeting will be open to the public, and the public is invited to submit written comments to the Committee. The notice was published in the **Federal Register** on September 27, 2000, less than 15 days prior to the first meeting as required by 41 CFR 101–61015. To accommodate all of the committee members' schedules and travel arrangements, however, the Commission finds good cause to continue to hold the meeting on October 10, 2000.

Dated: September 28, 2000.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–25424 Filed 10–3–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–4338; File No. SR–Amex–00–53]

Self Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the American Stock Exchange LLC Relating to the streetTracks sm Dow Jones Global Titans Index Fund

September 25, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 13, 2000, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to list and trade under Amex Rules 1000A *et seq.* (''Index Fund Shares''), shares of the streetTracks sm Dow Jones Global Titans Index Fund. The text of the proposed rule change is available upon request from the Office of the Secretary, the Amex or the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On March 8, 1996, the Commission approved Amex's listing and trading of Index Fund Shares under Rules 1000A *et seq.*[3] Index Fund Shares are shares issued by an open-end management investment company that seeks to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic equity market index. The Exchange currently trades the following Index Fund Shares under Amex Rules 1000A *et seq.*: Select Sector SPDRs based on industry sectors in the S&P 500 Index;[4] iShares MSCI Index Funds (formerly ''WEBS'') based on Morgan Stanley Capital International foreign indexes;[5] series of the iShares Trust based on domestic stock indexes; [6] and

[3] *See* Securities Exchange Act Release No. 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996).

[4] *See* Securities Exchange Act Release No. 40749 (December 4, 1998), 63 FR 68483 (December 11, 1998).

[5] *See* Securities Exchange Act Release Nos. 42748 (May 2, 2000), 65 FR 30155 (May 10, 2000); and 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996).

[6] *See* Securities Exchange Act Release No. 42787 (May 15, 2000), 65 FR 33598 (May 24, 2000).

series of the iShares Trust based on the S&P Europe 350 Index and the S&P/TSE 60 Index.[7]

The Exchange proposes to list and trade under Amex Rules 1000A *et seq.* shares (''Shares'') of the streetTracks[sm] Dow Jones Global Titans Index Fund (''Fund'').[8] The Fund is a series of the streetTracks[sm] Series Trust (''Trust''), an open-end management investment company.[9] State Street Bank and Trust Company (''State Street''), through its State Street Global Advisors (SSgA) division, acts as investment adviser to the Trust and, subject to the supervision of the Trust's Board of Trustees, is responsible for the management of the Fund. State Street also is the administrator and transfer agent for the Fund and is custodian for the Fund's assets. State Street Capital Markets LLC is the distributor for the Fund's shares.

a. The Global Titans Index [10]

The Global Titans index is composed of 50 common stocks, which are chosen by Dow. The stock must, in the opinion of Dow, meet all four of the following criteria to qualify as a candidate for the Index: (1) it must be a well established company with a solid financial situation and a broad client base; (2) it must be well known to global investors for either its long history of success or its widely used products or services; (3) it must be a market leader in its industry with either a dominant position or a competitive advantage; and (4) it must be among the largest of blue-chip companies in the global arena. In constructing the Global Titans Index, a multi-factor methodology is adopted. First, the 3,000 stocks of the Dow Jones Global Indexes are used as the Initial Pool with a view towards ensuring that all candidates are investable, liquid and representative of the global markets. Market capitalization is then used as the first screen to create the Final Pool by selecting the top 100 companies. Dow's rationale for this step is that market value is a universal measurement across industries, and also that its use is most appropriate for an index built for investment purposes. Every company in the Final Pool of 100 must derive some revenue from outside its home country. This screen is instituted to ensure that all stocks in the Index are truly global companies. The next step in Index construction is to combine the Final Pool components' market capitalization rankings with their rankings according to four other indicators of size and leadership. These four indicators, two from the balance sheet and two from the income statement, are assets, book value, sales/revenue, and net profit. The combined rankings of these four factors determine the fundamental rank of each company. The fundamental rank and the market capitalization rank are used equally as the basis for selecting the Index components.

The Index methodology described in the preceeding paragraph is subject to an annual review. A three-month window—March through June—is used for stock evaluation. The steps described above are repeated to build the Final Pool and to calculate the final ranking with respect to the four fundamental measures and weighted average market value. Any non-components that fall into the top 25 of the new final ranking are added to the Index, automatically replacing the lowest ranked components. A 20% buffer zone rule is applied, meaning that any component stocks ranked higher than 20% above the Index's target number of stocks are retained, while those ranked lower than 20% above the target number are replaced by the top ranked non-component stocks.

For purposes of calculation of the Index Value, securities for which the primary market is outside of the U.S. are valued based on the last sale price on the primary market. During periods when the primary market is closed, these securities are valued based on the last sale price of the corresponding American Depositary Receipts (''ADR''), if any.

The Fund will invest in foreign securities, including non-U.S. dollar-denominated securities traded outside the United States and dollar-denominated securities of foreign issuers traded in the United States. Foreign securities also include investments such as ADRs which are U.S. dollar-denominated receipts representing shares of foreign-based corporations. ADRs are issued by the U.S. banks or trust companies and entitle the holder to all dividends and capital gains that are paid out on the underlying foreign shares.

As of August 31, 2000, the Index included 27 U.S. companies, 20 Western European companies and 3 Japanese companies, representing 68.17%, 27.45% and 4.38% of the Index weight, respectively. Forty-four Index components, representing 94.36% of the Index weight, are listed on the New York Stock Exchange (''NYSE'') or on the National Association of Securities Dealers Automated Quotations System (''Nasdaq''). Seventeen of the 23 non-U.S. companies in the Index have ADRs listed and traded on the NYSE. The following five non-U.S. companies in the Index, with a combined Index weight of 5.07%, have ADRs traded in the U.S. in the over-the counter ''Pink Sheet'' market: Credit Suisse Group, Lloyds/TSB Group PLC, Nestle S.A., Roche Holding AG, and Siemens AG. ADRs for one non-U.S. company in the Index, Allianz AG Holding, are not currently available.

The Fund's investment objective is to replicate, using an ''indexing'' investment approach, as closely as possible, before expenses, the performance of the Global Titans Index. The Fund uses a passive management strategy designed to track the performance of the Global Titans Index. The adviser seeks a correlation of 0.95 or better between the Fund's performance and the performance of the Index; a figure of 1.00 would represent perfect correlation. The Fund generally will invest in all of the stocks comprising the Index in proportion to their weightings in the Index. However, under various circumstances, it may not be possible or practicable to purchase all of those stocks in those weightings. In those circumstances, the Fund may purchase a sample of the stocks in the Index in proportions expected by the Adviser to replicate generally the performance of the Index as a whole. There may also be instances in which the Adviser may choose to overweight another stock in the Index, purchase securities not in the Index which the Adviser believes are appropriate to substitute for the Index Securities, or utilize various combinations of other available investment techniques, in seeking to track accurately the Index. In addition, from time to time stocks are added to or removed from the Index. The Fund may sell stocks that are represented in the Index, or purchase stocks that are not yet represented in the Index, in anticipation of their removal from or addition to the Index. The Fund will normally invest at least 95% of its total assets in common stocks that comprise the Index.

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[7] *See* Securities Exchange Act Release No. 42786 (May 15, 2000), 65 FR 33586 (May 24, 2000).

[8] ''streetTracks''[sm] is a service mark of State Street Corporation.

[9] The Fund has filed with the Commission an Application for Orders (''Application'') under Sections 6(c) and 17(b) of the Investment Company Act of 1940 (''1940 Act'') as amended for the purpose of exempting the Fund, together with other funds specified in the Application, from various provisions of the 1940 Act and rules thereunder. (File No. 812–11882) (Investment Company Act Release No. 24631 (September 1, 2000), 65 FR 54327 (September 7, 2000)).

[10] Information relating to the Global Titans Index methodology is based on materials prepared by Dow Jones and Company (''Dow'').

b. Purchase or Creation of Creation Unit Aggregations

The Fund will issue and redeem Shares only in Creation Unit size aggregations (50,000 shares per Creation Unit). The Fund will issue and sell Shares through the distributor on a continuous basis at the net asset value per share next determined after an order to purchase Shares in Creation Unit size aggregations is received in proper form. Following issuance, Shares are traded on the Exchange like other equity securities by professionals, as well as retail and institutional investors.

To create (*i.e.,* purchase) Creation Units of the Fund, an investor must generally deposit a designated portfolio of equity securities constituting a substantial replication, or a representation, of the stocks included in the Index (the ''Deposit Securities'') and generally makes a small cash payment referred to as the ''Cash Component.'' The list of the names and the number of shares of the Deposit Securities is made available by the custodian through the facilities of the National Securities Clearing Corporation (''NSCC'') immediately prior to the opening of business on the Exchange. The Cash Component represents the difference between the net asset value of a Creation Unit and the market value of the Deposit Securities.

Orders must be placed in proper form by or through either (1) a ''Participating Party,'' *i.e.,* a broker-dealer or other participant in the clearing process of the Continuous Net Settlement System of the NSCC (the ''Clearing Process''); or (2) a Depository Trust Company (''DTC'') Participant, that, in either case, has entered into an agreement with the Trust, the distributor and the transfer agent with respect to creations and redemptions of Creation Units (''Participant Agreement''). All orders must be placed for one or more whole Creation Units of Shares of the Fund and must be received by the distributor in proper form no later than the close of regular trading on the NYSE (ordinarily 4:00 p.m., New York time) to receive that day's closing net asset value per Share.

c. Redemption of Creation Unit Aggregations

Shares may be redeemed only in Creation Units at their net asset value and only on a day the NYSE is open for business. The custodian makes available immediately prior to the opening of business on the Exchange, through the facilities of the NSCC, the list of the names and the number of Shares of the Fund's portfolio securities that will be applicable that day to redemption requests in proper form (''Fund Securities''). Fund Securities received on redemption may not be identical to Deposit Securities which are applicable to creations of Creation Units. Unless cash redemptions are available or specified for the Fund, the redemption proceeds consist of the Fund Securities, plus cash in an amount equal to the difference between the net asset value of the Shares being redeemed as next determined after receipt by the transfer agent of a redemption request in proper form, and the value of the Fund Securities (the ''Cash Redemption Amount''), less the applicable redemption fee. Shares cannot be redeemed individually but must be redeemed in Creation Unit size aggregations.

d. Other Information

Income dividend distributions, if any, are distributed to shareholders quarterly. Net capital gains are distributed at least annually. Dividends may be declared and paid more frequently to improve Index tracking or to comply with the distribution requirements of the Internal Revenue Code. Distributions in cash may be reinvested automatically in additional whole Shares if the broker through which the investor purchased Shares makes such option available. Broker-dealers may make available the DTC book-entry Dividend Reinvestment Service for use by beneficial owners of Shares through DTC Participants for reinvestment of their dividend distributions. If this service is available and used, dividend distributions of both income and realized gains will be automatically reinvested in additional whole Shares issued by the Fund based on a payable date net asset value.

The net asset value for the Fund is calculated by the Fund's custodian. After calculation, such net asset value is available to the public from the Fund's distributor, and is also available to NSCC participants through data made available from NSCC.

Shares are registered in book entry form through the DTC. Trading in shares of Shares on the Exchange is effected until 4:00 p.m. (New York Time) each business day. The minimum trading increment for Shares will be 1/64 of $1.00, pursuant to Amex Rule 127, Commentary .03 (pending implementation of decimal pricing for all Amex equity securities).

To provide updated information relating to the Fund for use by investors, professionals and persons wishing to create or redeem shares of Shares based on Index with non-U.S. components, the Amex intends to disseminate a variety of data with respect to the Fund on a daily basis by means of CTA Tape B and Consolidated Quotation High Speed Lines, including Shares outstanding and Cash Component per Creation Unit size aggregation, which will be made available prior to the opening of the Amex. The closing prices of the Fund's Deposit Securities are readily available from, as applicable, the relevant exchanges, automated quotation systems, or on-line information services such as Bloomberg or Reuters. The Amex will also disseminate over Tape B an updated portfolio value (''Value'') for Shares on a per Share basis every 15 seconds during regular Amex trading hours of 9:30 a.m. to 4:00 New York time. This value will be based on last sale prices disseminated by U.S. and applicable foreign exchange markets, the price of foreign issues being converted into U.S. dollars based on current currency exchange rates, and/or reported ADR prices in the U.S. (in U.S. dollars).

e. Criteria for Initial and Continued Listing

Shares are subject to the criteria for initial and continued listing of Index Fund Shares in Amex Rule 1002A. It is anticipated that a minimum of two Creation Units (100,000 Shares) will be required to be outstanding at the start of trading. This minimum number of Shares required to be outstanding at the start of trading will be comparable to requirements that have been applied to previously listed series of Portfolio Depositary Receipts and Index Fund Shares. It is anticipated that the net asset value of an individual Share will be approximately 1/3 of the Index value. For example, if the Index value is 270 (the Index value as of September 8, 2000), the initial Share price would be approximately $90.

The Exchange believes that the proposed minimum number of Shares outstanding at the start of trading is sufficient to provide market liquidity and to further the Fund's objective to seek to provide investment results that correspond generally to the price and yield performance of the Index.

f. Original and Annual Listing Fees

The Amex original listing fee applicable to the listing of Shares is $5,000. In addition, the annual listing fee applicable to the Fund under Section 141 of the *Amex Company Guide* will be based upon the year-end aggregate number of outstanding Shares in all funds of the Trust listed on the

Exchange.[11] As noted above, the 1940 Act Application for Orders with respect to the Fund encompasses a number of funds in addition to the Fund, as specified in the Application.

g. Stop and Stop Limit Orders

Amex Rule 154, Commentary .04(c) provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Amex Rule 950(f) and Commentary thereto) the price of which is derivatively priced based upon another security or index of securities, may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c)(i–v). The Exchange has designated Index Fund Shares, including Shares, as eligible for this treatment.[12]

h. Rule 190

Amex Rule 190, Commentary .04 applies to Index Fund Shares listed on the Exchange, including Shares. Commentary .04 states that nothing in Amex Rule 190(a) should be construed to restrict a specialist registered in a security issued by an investment company from purchasing and redeeming the listed security, or securities that can be subdivided or converted into the listed security, from the issuer as appropriate to facilitate the maintenance of a fair and orderly market.

i. Prospectus Delivery

The Exchange, in an Information Circular to Exchange members and member organizations, will inform members and member organizations, prior to commencement of trading, that investors purchasing Shares shall be required to receive a Fund prospectus prior to or concurrently with the confirmation of a transaction therein.

j. Trading Halts

In addition to other factors that may be relevant, the Exchange may consider factors such as those set forth in Amex Rule 918C(b) in exercising its discretion to halt or suspend trading in Index Fund Shares, including Shares. These factors would include, but are not limited to, (1) the extent to which trading is not occurring in stocks underlying the index; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[13] In addition, trading in Shares will be halted if the circuit breaker parameters under Amex Rule 117 have been reached.

k. Suitability

Prior to commencement of trading, the Exchange will issue an Information Circular informing members and member organizations of the characteristics of the Fund and of applicable Exchange rules, as well as of the requirements of Amex Rule 411 (Duty to Know and Approve Customers).

l. Purchases and Redemptions in Creation Unit Size

In the Information Circular referenced above, members and member organizations will be informed that procedures for purchases and redemptions of Shares in Creation Unit Size are described in the Fund prospectus and Statement of Additional Information, and that Shares are not individually redeemable but are redeemable only in Creation Unit Size aggregations or multiples thereof.

m. Surveillance

Exchange surveillance procedures applicable to trading in the proposed Shares are comparable to those applicable to other Index Fund Shares currently trading on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act[14] in general and furthers the objectives of Section 6(b)(5)[15] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not receive any written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–00–53 and should be submitted by October 25, 2000.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5) of the Act.[16] The Commission believes that the Exchange's proposal to list and trade under Amex Rules 1000A *et seq.,* Shares of the streetTracks[sm] Dow Jones Global Titans Index Fund will provide investors with a convenient and efficient way of participating in the securities markets, including involvement with equities issued by foreign investors. The Exchange's proposal should provide investors with increased flexibility in satisfying their investment needs by allowing them to purchase and sell a single security, at negotiated prices throughout the business day, that replicates the performance of a portfolio of stocks.

[11] As noted above, the 1940 Act Application for Orders with respect to the Fund encompasses a number of funds in addition to the Fund, as specified in the Application. *See supra* note 9.

[12] *See* Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 1991), note 9, regarding Exchange designation of equity derivative securities as eligible for such treatment under Amex Rule 154, Commentary .04(c).

[13] *See* Amex Rule 918C.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(5).

Accordingly, as discussed below, the Commission finds that the Exchange's proposal will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, protect investors and the public interest consistent with Section 6(b)(5) of the Act.[17]

Amex Rules 1000A *et seq.* provide for the listing and trading of Index Fund Shares, which are shares issue by an open-end management investment company that seeks to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic index. The Exchange currently lists under Amex Rules 1000 *et seq.*: Select Sector SPDRs based on industry sectors in the S&P 500 Index; [18] Shares MSCI Index Funds (formerly ''WEBS'') based on Morgan Stanley Capital International foreign indexes; [19] series of the iShares Trust based on domestic stock indexes; [20] and series of the iShares Trust based on the S&P Europe 350 Index and the S&P/TSE 60 Index.[21] Similar to these other types of Index Fund Shares, the Commission believes that the streetTracks [sm] Dow Jones Global Titans Index Fund will provide investors with an alternative to trading a broad range of securities on an individual basis, and will give investors the ability to trade a product representing an interest in a portfolio of securities designed to reflect substantially the applicable underlying index. The streetTracks [sm] Dow Jones Global Titans Index Fund should allow investors to: (1) respond quickly to market changes through intra-day trading opportunities; (2) engage in hedging strategies similar to those used by institutional investors; and (3) reduce transaction costs for trading a portfolio of securities.

Although the fund is not a leveraged instrument, and, therefore, does not possess any of the attributes of stock index options, its prices will be derived and based upon the securities and the cash held in the Fund. Accordingly, the level of risk involved in the purchase or sale of this Fund is similar to the risk involved in the purchase or sale of traditional common stock, with the exception that the pricing mechanism for the Fund is based on a portfolio of securities. Based on these factors, the Commission believes that it is appropriate to regulate the Fund in a manner similar to other equity securities. Nevertheless, the Commission believes that the nature of the Fund raises certain product design, disclosure, trading, market impact and other issues that must be addressed adequately. As discussed in more detail below, the Commission believes Amex has adequately addressed these concerns.

A. The Global Titans Index Fund Generally

The Commission believes that the proposed Fund is reasonably designed to provide investors with an investment vehicle that substantially reflects in value the index it is based upon. In this regard, the Commission notes that the Fund will use an ''indexing'' investment approach that attempts to replicate, before expenses, the performance of the Index. The Fund generally will invest in all of the stocks comprising the Index in proportion to their weightings in the Index. The Fund Adviser may, however, choose stock equivalent positions that the Advisor deems appropriate as an alternative to such stocks. The Commission also notes that the Fund will normally invest at least 95% of its total assets in stocks that comprise the Index. The Commission believes that the component selection and replacement procedures for the Fund should help to ensure that the component securities generally remain highly capitalized and actively traded.

B. Disclosure

The Commission believes that the Exchange's proposal should ensure that investors are adequately apprised of the terms, characteristics, and risks of trading the Fund. As noted above, all investors will receive a prospectus regarding the product, prior to or concurrently with the confirmation of a transaction therein. Alternatively, as previously noted, the Fund will be subject to the Exchange's rules and procedures for Index Fund Shares. This includes the provisions in Commentary .03 to Amex Rule 1000A, which provides for delivery requirements of a product description for series that have been granted relief from the prospectus delivery requirements of the Act.[22] Because the Fund will be in continuous distribution, the prospectus delivery requirements of the Securities Act of 1933 will apply both to initial investors and to all investors purchasing such securities in secondary market transactions on the Amex. The prospectus or product description will address the special characteristics of Shares of the streetTracks[sm] Dow Jones Global Titans Index Fund, including a statement regarding redeemability and method of creation.

The Commission notes that the Exchange will issue an information circular to its members explaining the unique characteristics of this type of security prior to the commencement of trading in shares of the Fund. The Commission also notes that the circular will inform members of responsibilities under Amex Rule 411 in connection with customer transactions in this security.[23] The circular also will address members' responsibility to deliver a prospectus or product description to all investors and highlight the characteristics of purchases in the Fund, including the procedures for purchases and redemptions and that such purchases and redemptions must be in Creation Unit size aggregations.

C. Listing and Trading of the Index Fund Shares

The Commission finds that adequate rules and procedures exist to govern the listing and trading of the Fund. The Fund will be subject to the full panoply of Amex listing and delisting/suspension rules and procedures governing the training of Index Fund Shares on the Amex. The Fund will be deemed an equity security subject to all Amex rules governing the trading of equity securities, including, among others, rules governing trading halts, notices to members, responsibilities of the specialist, customer suitability requirements and the election of a stop and stop limit order. Amex surveillance procedures for Index Fund Shares will be applicable to the streetTracks[sm] Dow Jones Global Titans Index Fund. The Commission believes that the surveillance procedures developed by the Amex for Index Fund Shares are adequate to address the concerns associated with the listing and trading of this Fund, including any concerns associated with purchasing and redeeming Creation Units.

In addition, the Exchange has designated that a minimum of two

[17] 15 U.S.C. 78f(b)(5). In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[18] See *supra* note 4.

[19] *See supra* note 5.

[20] *See supra* note 6.

[21] *See supra* note 7.

[22] *See supra* note 6 (approving delivery of product description in lieu of prospectus).

[23] Amex Rule 411 generally requires that members use due diligence to learn the essential facts relative to every customer, every order or account accepted. As per telephone conversation between Florence E. Harmon, Senior Special Counsel, Division of Market Regulation, SEC, and Mike Cavalier, Associate General Counsel, Amex, on September 25, 2000.

Creation Units, approximately 100,000 shares, will be required to be outstanding at the start of trading. The Commission believes this minimum number is sufficient to help to ensure that a minimum level of liquidity will exist at the start of trading. Furthermore, the Commission finds that registering the Fund shares in book-entry form through DTC, managing the distribution of dividends from net investment income, if any, and permitting beneficial owners of the Funds to offer the DTC book-entry Dividend Reinvestment Service are characteristics of the Fund that are consistent with the Act and should allow for the maintenance of fair and orderly markets and perfect the mechanism of a free and open market.

Further, the Commission believes that the Exchange's proposal to trade the Fund in minimum fractional increments of 1/64 of $1.00 is consistent with the Act. The Commission believes that such trading should enhance market liquidity, and should promote more accurate pricing, tighter quotations, and reduced price fluctuations. The Commission also believes that such trading should allow customers to receive the best possible execution of their transactions in the Fund. Additionally, the Commission believes that the proposed original listing fee of $5,000 is reasonable as is the proposed method for calculating the annual fee.

D. Dissemination of Information and Regarding the Fund

The Commission believes that the Values and figures that the Exchange proposes to have disseminated for the Fund will provide investors with timely and useful information concerning the value of the Fund. The Exchange represents that the Value information will be disseminated, every 15 seconds during regular Amex trading hours, through the facilities of the CTA and will reflect currently-available information concerning the value for Shares of the Fund. On a daily basis, the Exchange represents that it will disseminate the Shares outstanding, the cash amount per Creation Unit Aggregation, and the net asset value. The Exchange represents that the closing prices of the Fund's Deposit Securities are readily available from, as applicable, the relevant exchanges, automated quotation systems, or on-line information services such as Bloomberg or Reuters. The intra-day value of the Underlying Index will be available from Dow.

E. Accelerated Approval

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** pursuant to Section 19(b)(2) of the Act. The Commission notes that the proposed rule change is based on the listing and trading standards in Amex Rule 1000A *et seq.* (Index Fund Shares), which the Commission previously approved after soliciting public comment on the proposal pursuant to Section 19(b)(1) of the Act.[24] The Commission does not believe that the proposed rule change raises novel regulatory issues that were not addressed in the Amex filing. Accordingly, the Commission believes it is appropriate to permit investors to benefit from the flexibility afforded by this new instrument by trading them as soon as possible. Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,[25] to approve the proposal on an accelerated basis.

V. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[26] that the proposed rule change (SR–Amex–00–53), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–25438 Filed 10–3–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43370; File No. SR–NASD–00–38]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Application of NASD Rules and Interpretive Materials to Certain Exempted Securities

September 27, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 16, 2000, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary, NASD Regulation, filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.[4]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD proposes to amend its rules to: (1) Codify an NASD staff interpretation that the non-cash compensation provisions set forth in paragraph (g) of NASD Rule 2820, ''Variable Contracts of an Insurance Company,'' apply to group variable contracts that are exempted securities; and (2) adopt new NASD Rule 0116, ''Application of Rules of the Association to Exempted Securities,'' to enumerate the NASD rules and interpretive materials that apply to exempted securities, including government securities, other than municipal securities. The text of the proposed rule

[24] *See supra* note 6 (approving SR–Amex–00–14); Securities Exchange Act Release No. 42542 (March 17, 2000), 65 FR 16437 (March 28, 2000) (noticing SR–Amex–00–14).

[25] 15 U.S.C. 78s(b)(5).

[26] 15 U.S.C. 78s(b)(2).

[27] 17 U.S.C. 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On September 11, 2000, NASD Regulation filed Amendment No. 1 to the proposal. *See* letter from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated September 11, 2000 (''Amendment No. 1''). In Amendment No. 1, NASD Regulation amended proposed NASD Rule 0116 to: (1) delete a reference to NASD Rule 2300; (2) replace a reference in proposed NASD Rule 0116 to IM–2520 with a reference to IM–2522; and (3) add references to NASD Rules 8110, 8120, 8210, 8221, 8222, 8223, 8224, 8225, 8226, 8227, 8310, IM–8310–1, IM–8310–2, 8230. In addition, Amendment No. 1 clarifies that the non-cash compensation provisions in NASD Rule 2820 will appear in NASD Rule 2820(g) rather than NASD Rule 2820(h) as a result of a rule change approved in October 1999 that deleted paragraph (c) of NASD Rule 2820. *See* Securities Exchange Act Release No. 4204 (October 20, 1999), 64 FR 58112 (October 28, 1999) (order approving File No. SR–NASD–98–14).

[4] In its proposal, NASD Regulation asked the Commission to approve the proposal on an accelerated basis. The Commission received two comment letters asking the Commission not to approve the proposal on an accelerated basis. *See* letter from Carl B. Wilkerson, Chief Counsel, Securities, American Council of Life Insurers, to Jonathan G. Katz, Secretary, Commission, dated August 4, 2000; and letter from David A. Winston, Vice President, Government Affairs, National Association of Insurance and Financial Advisors, dated August 30, 2000. The Commission is publishing the proposal for comment with a 15-day comment period.

change appears below. Proposed new language is in italics.

* * * * *

0100. GENERAL PROVISIONS

0110. Adoption and Application of Rules

0116. Application of Rules of the Association to Exempted Securities

(a) For purposes of this Rule, the terms ''exempted securities'' and ''municipal securities'' shall have the meanings specified in Sections 3(a)(12) and 3(a)(29) of the Act, respectively.

(b) Unless otherwise indicated within a particular provision, the following Rules of the Association and Interpretative Materials thereunder are applicable to transactions and business activities relating to exempted securities, except municipal securities, conducted by members and associated persons: 2110, 2120, 2210, IM–2210–1, IM–2210–2, IM–2210–3, 2250, 2270, 2300, 2310, IM–2310–2, IM–2310–3, 2320, 2330, IM–2330, 2340, 2430, 2450, 2510, 2520, IM–2520, 2770, 2780, 2820(g), 2910, 3010, 3020, 3030, 3040, 3050, 3060, 3070, 3110, IM–3110, 3120, 3130, IM–3130, 3131, 3140, 3230, 3310, IM–3310, 3320, IM–3320, 3330, 8110, 8120, 8210, 8221, 8222, 8223, 8224, 8225, 8226, 8227, 8310, IM–8310, IM–8310–1, IM–8310–2, 8320, and 8330.[5]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation 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. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Government Securities Act Amendments of 1993 (''GSAA'')[6] eliminated the statutory limitations on the NASD's authority to apply sales-practice rules to members' transactions in exempted securities, including government securities, other than municipal securities.[7] To implement the expanded sales practice authority granted to it pursuant to the GSAA, the NASD in 1995 submitted a proposal to the Commission to apply various NASD rules to exempted securities, including government securities, other than municipal securities. The Commission approved the NASD's proposal.[8] The 1996 Order and NASD Notice to Members 96–66 (October 1996) list the NASD rules that apply to members' transactions in exempted securities other than municipal securities.[9] However, this list was not incorporated into a specific NASD rule and does not currently appear in the NASD Manual. The proposal will codify in proposed NASD Rule 0116 the list of NASD rules and interpretative materials applicable to exempted securities, including government securities, other than municipal securities, and, as discussed more fully below, will add NASD Rule 2820(g) to the list. NASD Regulation believes that codifying this information in an NASD rule will enable members and other interested parties to identify the rules applicable to exempted securities, other than municipal securities, in a more efficient manner.

In Amendment No. 1, NASD Regulation proposes to add NASD Rules 8110, 8120, 8210, 8221, 8222, 8223, 8224, 8225, 8226, 8227, 8310, IM–8310, IM–8310–1, IM–8310–2, 8320, and 8330 to proposed NASD Rule 0116. According to NASD Regulation, the 8000 Series rules were excluded inadvertently from the original proposal and should be included in proposed NASD Rule 0116 because they are applicable to transactions and business activities relating to exempted securities.[10]

NASD Regulation notes that at the time the NASD identified the NASD rules that would apply to exempted securities other than municipal securities, the NASD had not adopted NASD Rule 2820(g).[11] Accordingly, NASD Rule 2820(g) was not listed as one of the provisions applicable to exempted securities. NASD Rule 2820(g), the non-cash compensation rule, limits the manner in which members may pay or accept non-cash compensation in connection with the sale or distribution of variable contracts.

NASD Regulations states that because certain group variable contracts are exempted securities under the Act, questions have arisen regarding whether NASD Rule 2820(g) applies to group variable contracts.[12] According to NASD Regulation, NASD Regulation staff have interpreted NASD Rule 2820(g) to apply to group variable contracts that are exempted securities since the adoption of NASD Rule 2820(g). To clarify the application of NASD Rule 2820(g) to group variable contracts that are exempted securities, NASD Regulation proposes to codify the current staff interpretation by including NASD Rule 2820(g) in proposed NASD Rule 0116.[13]

(2) *Statutory Basis*

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD Regulation believes that the proposed rule change will assist members and associated persons in more easily identifying those NASD rules applicable to transactions and business activities relating to exempted securities (other than municipal securities).

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not

[5] *See* Amendment No. 1, *supra* note 30.

[6] Government Securities Act Amendments of 1993, Pub. L. No. 103–202, § 1(a), 107 Stat. 2344 (1993).

[7] The terms exempted securities, government securities, and municipal securities are defined in Sections 3(a)(12), 3(a)(42), and 3(a)(29) of the Act, respectively. Rules for municipal securities are promulgated by the Municipal Securities Rulemaking Board.

[8] *See* Securities Exchange Act Release No. 37588 (August 20, 1996), 61 FR 44100 (August 27, 1996) (order approving File No. SR–NASD–95–39) (''1996 Order'').

[9] Specifically, NASD Regulation notes that the 1996 Order and Notice to Members 96–66 indicate that the following NASD rules and interpretative materials are applicable to transactions and business activities relating to exempted securities (other than municipal securities) conducted by NASD members and associated persons: 2110, 2120, 2210, IM–2210–1, IM–2210–2, IM–2210—3, 2250, 2270, 2300, 2310, IM–2310–2, IM–2310–3, 2320, 2330, IM–2330, 2340, 2430, 2450, 2510, 2520, IM–2520, 2770, 2780, 2910, 3010, 3020, 3030, 3040, 3050, 3060, 3070, 3110, IM–3110, 3120, 3130, IM–3130, 3131, 3140, 3230, 3310, IM–3310, 3320, IM–3320 and 3330.

[10] *See* Amendment No. 1, *supra* note 3. The 1996 Order indicated that various NASD rules in the 8000 Series applied to exempted securities, including government securities, other than municipal securities. The Commission subsequently approved amendments to the 8000 Series that adopted NASD Rules 8221 through 8227. *See* Securities Exchange Act Release No. 38908 (August 7, 1997), 62 FR 43385 (August 13, 1997) (order approving File No. SR–NASD–97–28) (''1997 Order''). As indicated above, proposed NASD Rule 0116 includes NASD Rules 8221 through 8227 in its list of NASD rules that are applicable to exempted securities, including government securities, other than municipal securities.

[11] *See* Amendment No. 1, *supra* note 3.

[12] Section 3(a)(12)(A)(iv) of the Act includes as an exempted security ''* * * any security arising out of a contract issued by an insurance company, which * * * security is issued in connection with a qualified plan as defined in subparagraph (C) of this paragraph.''

[13] Because Rule 2820(g) applies only to transactions in variable products, the proposed rule change would result in Rule 2820(g) expressly applying to all variable products, including variable products that are exempted securities, such as group variable or similar products. NASD Regulation is not at this time recommending that other provisions of Rule NASD Rule 2820 apply to exempted securities.

necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not solicited. However, NASD Regulation received a letter from the National Association for Variable Annuities (''NAVA''), which argues that the non-cash compensation rules do not apply to sales of group variable annuities for several reasons.[14] First, NAVA contends that the specific language of NASD Rule 2820 limits its application to activities of members in connection with variable contracts, to the extent such activities are subject to regulation under the federal securities laws.[15] However, although certain provisions of the federal securities laws do not apply to exempted securities, other provisions of the federal securities laws do apply, including the anti-fraud provisions. Therefore, NASD Rule 2820(a) does not restrict the application of NASD Rule 2820(g) to group variable activities.

Second, NAVA argues that because NASD Rule 2820(g) was not specifically included in the 1996 Order's list of NASD rules applicable to exempted securities, the non-cash compensation provisions do not apply to sales of group variables. As described above, NASD Rule 2820(g) had not been adopted at the time the NASD identified the NASD rules that would apply to exempted securities, other than municipal securities. Accordingly, NASD Rule 2820(g) was not listed as one of the provisions applicable to exempted securities.

Third, NAVA argues that if the non-cash compensation rules do apply to group variables, separate contests should be permissible for group variable products given their different design, cost structures and commission payouts. With respect to the allowance of separate contests for group variable products, NASD Regulation staff has stated in Question #22 of Notice to Member 99–55 (July 1999) that a member may structure a non-cash arrangement that is limited only to a specific division of the firm. Therefore, if a separate sales force or division sells group variable contracts, as the NAVA letter indicates often occurs, then a separate contest may be appropriate. However, where the same salesperson sells both group variable products and individual variable annuities, separate contests would not be permissible, *i.e.,* the contest must be based on the entire universe of products within a specific product category that the individual sells.

[14] *See* letter from Mark J. Mackey, President and Chief Executive Officer, NAVA, to John M. Ramsay, Vice President and Deputy General Counsel, Office of General Counsel, NASD Regulation, dated April 16, 1999.

[15] NASD Rule 2820(a) states ''[t]his Rule shall apply exclusively (and in lieu of Rule 2830) to the activities of members in connection with variable contracts, to the extent such activities are subject to regulation under the federal securities laws.''

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change and Amendment No. 1 are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–00–38 and should be submitted by October 19, 2000.[16]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–25441 Filed 10–3–00; 8:45 am]

BILLING CODE 8010–01–M

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43342; File No. SR–PCX–00–08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Stock Exchange, Inc. Relating to the Dissolution of the Appointments Committee

September 26, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 20, 2000, the Pacific Stock Exchange, Inc. (''PCX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On September 21, 2000, the Exchange filed Amendment No. 1 to the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has filed with the Commission a proposed rule change to dissolve the Options Appointments Committee and to transfer all powers of the Options Appointments Committee to the Options Allocation Committee. The text of the proposed rule change is available at the Office of the Secretary, the PCX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange made technical corrections to the rule language and made non-substantive changes to the purpose section of the filing for clarity. *See* letter from Cindy L. Sink, Senior Attorney, Regulatory Policy, PCX to Jennifer L. Colihan, Division of Market Regulation, Commission, dated September 20, 2000.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Current PCX rules state that the duty of the Options Appointment Committee is to recommend to the Board of Governors the appointment, assignment, retention, reassignment, transfer, and taking leave of the privileges to deal in and trade options to, by, and among members on the Options Trading Floor.[4] The Options Appointment Committee is also responsible for appointing Market Makers and appointing and approving Lead Market Makers (''LMMs'').[5] The Options Appointment Committee may relieve LMMs of their appointments, designate interim LMMs, and make determinations pertaining to LMM-related issues not within the jurisdiction of any other standing committee. The Exchange proposes to eliminate the Options Appointment Committee and to transfer all of its authority and duties to the Options Allocation Committee, in order to centralize the PCX rules relating to the approval, evaluation, allocation to, and appointment of LMMs.

Specifically, the Exchange proposes to change all references to the ''Options Appointment Committee'' in PCX Rule 11.10(a), to the ''Options Allocation Committee'' and to transfer the language of PCX Rule 11.10(a), relating to the current duties of the Options Appointment Committee, to the Options Allocation Committee under new proposed PCX Rule 11.10(b)(2). The Exchange also proposes to renumber PCX Rule 11.10(b) as 11.10(a) and PCX Rule 11.10(c) as 11.10(b)(1). The Exchange believes that these changes will make the application of the transfer of all authority and duties from the Options Appointment Committee to the Options Allocation Committee consistent throughout the text of PCX Rule 11.

The Exchange also proposes to change the references to the ''Options Appointment Committee'' in PCX Rules 6.35; 6.37; Commentary .08; 6.82(a)(1) and (3); 6.82(b)(1) and (2); 6.82(f)(3); 6.82(g)(1); and 6.82(h)(1) to the ''Options Allocation Committee.'' The Exchange believes that these changes will make all rules referencing or relating to the Options Appointment Committee consistent with that committee's elimination and the delegation of its duties and powers to the Options Allocation Committee.

2. Statutory Purpose

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Act,[6] in general, and further the objectives of Section 6(b)(5),[7] in particular, in that they are designed to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Amex consents, the Commission will:

A. by order approve the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

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, N.W., Washington, D.C. 20549–0609. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–00–08 and should be submitted by October 25, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–25439 Filed 10–3–00; 8:45 am]

BILLING CODE 8010–01–M

[4] *See* PCX Rules 6.35, 6.37, 6.82, 11.10(c).

[5] *See* PCX Rules 6.35 and 6.82.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43343; File No. SR–Phlx–00–80]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Waive Transaction and Comparison Fees on Customer Equity Option Orders.

September 26, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 1, 2000, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission(''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend its schedule of dues, fees and charges to waive all comparison and transaction charges for customers trading equity options. The proposed fee is effective on September 1, 2000.

The text of the proposed rule change is available at the Phlx and the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statements Regarding the Purpose of, and the Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Phlx fee schedule to waive and eliminate all comparison and transaction charges to customers connected with the trading of equity options. [3]

Currently, the Phlx imposes both comparison and transaction fees on all equity option trades, which vary in amount depending on whether a transaction involves a Registered Options Trader (''ROT''), a firm, a specialist or a customer. Customer orders electronically executed through the Phlx's Automated Options Market (AUTOM) system are entirely exempt from both comparison and transaction fees. Customer block orders (in certain size categories) are entitled to transaction fee discounts up to 25% of the normal charge. Under the proposed rule change all charges to ROTs, firms and specialists will remain unchanged.

The Phlx estimates that annual cost savings for customers will approximate $4.5 million based upon year-to-date results through July, 2000. These proposed fee adjustments are necessary in order to make the Phlx's fees more competitive with equivalent fees charged by other exchanges and to either maintain or enhance the volume of equity option orders placed with the Phlx. These downward adjustments in fee levels will also encourage the use of options by the investing public and promote competition and efficiencies among exchanges.

Recently, the American Stock Exchange,[4] Chicago Board Options Exchange [5] and the Pacific Exchange [6] have all changed their respective rules to eliminate similar equity option fees.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act [7] in general and furthers the objectives of Section 6(b)(4) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and others utilizing the Phlx.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Phlx has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee or charge imposed by the Phlx and, therefore, has become effective upon filing pursuant to Rule 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(2) thereunder.[10] At any time within 60 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 purpose 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–00–80 and should be submitted by October 25, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–25425 Filed 10–3–00; 8:45 am]

BILLING CODE 8010–10–M

[3] *See* Phlx Options Rule 1051.

[4] *See* Securities Exchange Act Release No. 42675 (April 13, 2000), 65 FR 21223 (April 20, 2000) (eliminating all transaction, clearance and floor brokerage fees for all customer equity option orders).

[5] *See* Securities Exchange Act Release No. 42850 (May 30, 2000), 65 FR 36187 (June 7, 2000) (rescinding transaction and trade match fees for customer equity option orders routed through its electronic order routing system).

[6] *See* Securities Exchange Act Release No. 43115 (August 3, 2000), 65 FR 49280 (August 11, 2000) (eliminating both the fee for all manual executions of customer option orders and the ticket data entry fee applicable to all customer option orders). *See also* Securities Exchange Act Release No. 43020 (July 10, 2000), 65 FR 44558 (July 18, 2000) (eliminating of all transaction charges for all forms of electronic executions of customer orders and all on-line comparison charges for all customer executions).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 240.30–2(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43339; File No. SR–PHLX–97–46]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change Amending Article V, Section 5–5 and Article XXII, Section 22–1 of the Exchange's By-Laws

September 25, 2000.

I. Introduction

On February 11, 1998,[1] the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend the Exchange's By-

[1] The Phlx had originally submitted the filing on December 10, 1997; however, at that time, the filing was incomplete. At the Commission's request the Phlx made a complete filing on February 11, 1998.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

Laws. On February 17, 1998, the Exchange filed Amendment No. 1 to the proposal with the Commission.[4] The proposed rule change, including Amendment No. 1, was published for comment in the **Federal Register** on March 17, 1998.[5] No comments were received on the proposal. On September 7, 1999, the Exchange filed Amendment No. 2 to the proposal with the Commission.[6]

This order approves the proposal, as amended, and requests comment from interested persons regarding Amendment No. 2 to the proposal.

II. Description of the Proposal

The Exchange proposes to amend Article V, Section 5–5, of its By-Laws to provide a mechanism to designate the Chief Operating Officer or another senior officer to assume the duties of Chairman on an interim basis in circumstances of an extended absence or inability of the Chairman to serve.[7] The Exchange also proposes to amend Article XXII, Section 22–1 to clarify the procedures with respect to the submission of amendments to the By-Laws. This proposed amendment to Section 22–1 would raise from fifty to seventy-five the number of Phlx members required to offer an amendment to the By-Laws; would lengthen from two weeks to four weeks the time period in which a vote on a proposed amendment must be held; and would establish the date of the submission of the proposed amendment as the record date for determining the eligibility of members to vote on the proposed amendment. The proposal also changes the requirement that the proposed amendment be submitted to the Board. Under the proposal, the proposed amendment will be submitted to the Secretary.

[4] *See* Letter from Murray L. Ross, Vice President and Secretary, Phlx, to Marie Ito, Special Counsel, Commission, dated February 13, 1998 (''Amendment No. 1''). In amendment No. 1, the Exchange made technical corrections to the language contained in Exhibit A to the proposal and provided support for the proposed changes to the By-Laws.

[5] Securities Exchange Act Release No. 39740 (March 10, 1998), 63 FR 13083.

[6] *See* Letter from Edith Hallahan, Deputy General Counsel, Phlx, to Michael Walinskas, Deputy Associate Director, SEC, dated September 3, 1999 (''Amendment No. 2''). In Amendment No. 2, the Exchange eliminated references in the proposal to By-Law Article IV, Section 4–8. The Exchange has filed the proposed changes to Section 4–8 in a separate proposal. *See* SR–PHLX–00–39.

[7] The Exchange has defined ''extended absence or inability to act'' as an inability of the Chairman to fulfill his or her duties for a period longer than four weeks.

III. Discussion

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[8] In particular, the Commission believes that the proposal is consistent with the Section 6(b)(3)[9] requirements that the rules of an Exchange be designed to assure a fair representation of its members in the selection of its directors and administration of its affairs.[10]

Under the proposed amendment to Article V, Section 5–5 of the Exchange's By-Laws, the Phlx board will be required to designate an acting Chairman if the Chairman of the Board is unable to fulfill his or her duties for more than four weeks. The Commission finds that the proposal may enable the Exchange to function more efficiently in the face of the extended absence or inability of the Chairman of the Board to act. By clarifying the circumstances under which the Chairman of the Phlx's board will be replaced on a temporary basis, the proposal strengthens existing provisions of the By-Laws, enabling the Exchange to better fulfill its responsibilities as a self-regulatory organization.

The Commission finds that the proposed amendments to Article XXII, Section 22–1 of the Phlx's By-Laws are designed to promote a fair and reasonable process for amending the Phlx's By-Laws that is consistent with the requirements of the Act. The Exchange represents that extending the period of time from two weeks to four weeks to conduct a vote on an amendment to the By-Laws will allow the Exchange sufficient time to send ballots to its membership while allowing the membership sufficient time to cast a reasoned and informed vote.[11] In addition, the Commission believes that the proposal, by establishing the record date for determining which members will be entitled to vote on a particular amendment to the Exchange's By-Laws, should improve and clarify the process by which By-Laws are amended.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(3).

[10] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] Telephone conversation between Murray L. Ross, Vice President and Secretary, Phlx and David Sieradzki, Special Counsel, Commission, on July 20, 2000.

The Commission finds good cause for approving Amendment No. 2 prior to the thirtieth day after the date of publication of notice in the **Federal Register**. Amendment No. 2 removes the section of the proposal amending Article IV, Section 4–8 of the Exchange's By-Laws. As a result, the Amendment raises no new significant regulatory issues. Accordingly, the Commission finds good cause, consistent with Sections 6(b)(6)[12] and 19(b)(2)[13] of the Act, to approve Amendment No. 2 to the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether Amendment No. 2 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–PHLX–97–46 and should be submitted by October 25, 2000.

V. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, [14] that the proposed rule change (SR–PHLX–97–46) is approved, as amended, and Amendment No. 2 is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. [15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–25440 Filed 10–3–00; 8:45 am]

BILLING CODE 8010–01–M

[12] 15 U.S.C. 78f(b)(6).

[13] 15 U.S.C. 78s(b)(2).

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2000–54]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 23, 2000.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to § 11.85 and 11.91 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on September 27, 2000.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 30010
Petitioner: Avcon Industries, Inc.
Section of the FAR Affected: 14 CFR § 25.87(e)(4)
Description of Relief Sought/ Disposition: To permit supplemental type certification of the Learjet Models 20 and 30 series airplanes, modified for the carriage of cargo, to exclude hazardous quantities of smoke, flames, or noxious gases from the flight crew compartment.
Grant, 09/05/00, Exemption No. 7341

Docket No.: 28660
Petitioner: The Collings Foundation
Section of the FAR Affected: 14 CFR §§ 91.315, 93.319(a), 119.5(g), and 119.21(a)
Description of Relief Sought/ Disposition: To permit Collings to operate its Boeing B–17 (B–17) aircraft, which is certificated in the limited category, and its Consolidated B–24 (B–24) aircraft, which is certificated in the experimental category, for the purpose of carrying passengers on local flights for compensation or hire. You request that the jurisdictional Flight Standards District Office (FSDO) be changed in the grant of exemption (*i.e.,* Condition No. 10) from ''NE FSDO No. 1'' to the FAA's SO FSDO No. 15, 5950 Hazeltine National Drive, Suite 550, Orlando, Florida 32822–5023, because Collings is relocating its base of maintenance and operations to Orlando, Florida and Smyrna Beach, Florida.
Grant, 09/05/00, Exemption No. 6540C

Docket No.: 29914
Petitioner: Gemini Air Cargo, Inc.
Section of the FAR Affected: 14 CFR § 121.583(a)(8)
Description of Relief Sought/ Disposition: To permit up to three dependents of GAC employees who are accompanied by an employee sponsor traveling on official business only and who are trained and qualified in the operation of the emergency equipment on GAC's Boeing–DC–10–30F and MD–11F all-cargo airplanes, to be added to the list of persons specified in § 121.583(a)(8) that GAC is authorized to transport without complying with the passenger-carrying airplane requirements in §§ 121.309(f), 121.310, 121.391, 121.571, and 121.587; the passenger-carrying operation requirements in §§ 121.157(c), 121.161, and 121.291; and the requirements pertaining to passengers in §§ 121.285, 121.313(f), 121.317, 121.547, and 121.573.
Grant, 08/25/00, Exemption No. 7339

Docket No.: 30179
Petitioner: Evergreen International Airlines, Inc.
Section of the FAR Affected: 14 CFR Special Federal Aviation Regulation No. 79
Description of Releif Sought/ Disposition: To permit one flight to Pyongyang, the capital city of the Democratic People's Republic of Korea, on or about August 28, 2000.
Grant, 08/24/00, Exemption No. 7325

Docket No.: 30189
Petitioner: Experimental Aircraft Association Chapter 1056
Section of the FAR Affected: 14 CFR §§ 135.251, 135.255, 135.353, and appendixes I and J to part 121
Description of Relief Sought/ Disposition: To permit EAA Chapter 1056 to conduct local sightseeing flights at Maple Grove Airport, Fowlerville, Michigan, for a two-day charitable event in September 2000, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 09/08/00, Exemption No. 7343

[FR Doc. 00–25266 Filed 10–3–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Highway 75, Timmerman Junction to Ketchum, Blaine County, ID

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for proposed transportation improvements within the Highway 75 corridor from Timmerman Junction to Ketchum, Idaho.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Gray, Environmental /Right-of-Way Program Manager, Federal Highway Administration, 3050 Lakeharbor Lane, Suite 126, Boise, ID 83702, (208) 334–1843; or Mr. Charles Carnohan, Senior Environmental Planner, Idaho Department of Transportation, P.O. Box 2–A, Shoshone, ID 83205–4700, (208) 886–7823.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document 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 site at: *http://www.access.gpo.gov/nara*.

Background

The FHWA, in cooperation with the Idaho Transportation Department, will prepare an environmental impact statement (EIS) on proposed transportation improvements to the Highway 75 corridor from the intersection with Highway 20 (Timmerman Junction) north to Ketchum, Idaho. The EIS process will include identification of issues, development of the project's purpose and need, and identification and evaluation of a range of multi modal transportation alternatives as well as project mitigation measures.

A series of public scoping meetings will be held in Hailey and Ketchum Idaho to ensure that the full range of issues related to this proposed action are identified. Notices of specific meeting times and places will be placed in local newspapers. In addition, public meetings and consultation with Federal, State and local agencies will also be held. Comments and suggestions are invited from all interested parties. Comments or questions can be directed to the contacts listed in the caption **FOR FURTHER INFORMATION CONTACT**.

Authority: 23 U.S.C. 315; 23 CFR 1.48.

Issued on: September 28, 2000.

Stephen A. Moreno,

Division Administrator.

[FR Doc. 00–25435 Filed 10–3–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2000–8014; Notice 1]

Mercedes-Benz USA, Receipt of Application for Decision of Inconsequential Noncompliance

Mercedes-Benz, U.S.A., L.L.C., Montvale, New Jersey (MBUSA), has determined that a limited number of model year 2000 Mercedes-Benz CL500 vehicles were produced and sold with upper beam headlamps that do not meet the photometric requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 108, ''Lamps, Reflective Devices, and Associated Equipment.'' A number of Mercedes-Benz CL500 vehicles were produced with upper beam headlamps that exceed the photometric limits of FMVSS 108.

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Mercedes-Benz has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.''

This notice of receipt of this application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

Mercedes-Benz CL500 vehicles are equipped with Xenon headlamps. The lamps are a type of lighting technology that replaces the filament of the light bulb with a capsule of gas, in this case Xenon. When high voltage is applied, the Xenon gas is ignited to produce an arc of light. The amount of light produced is greater than a standard halogen bulb, while consuming less power, and more closely approximating the color temperature of natural daylight. When the lower beams of the Mercedes-Benz CL500 are illuminated, the Xenon lamps are illuminated and, through the use of a mechanical flap, are directed at an angle that optimizes illumination of road surfaces in front of the vehicle. In lower-beam mode the Xenon lamps meet all photometric requirements outlined in FMVSS 108. When the upper beam headlamps are activated, the mechanical flap alters the angle of the Xenon lamp illumination to provide higher angle illumination. In 613 Model Year 2000 CL500 vehicles, in addition to the Xenon lamp, a separate H7 lamp was improperly wired to illuminate at the same time the mechanical flap was activated to increase the Xenon light angle. In upper-beam mode, the Xenon and H7 lamp combination emit 89,000 candela of light and 12,731 candela of light at test points H,V and 4D–V respectively. This measurement exceeds the maximum photometric requirements of FMVSS 108 by approximately 20 percent.

MBUSA does not believe that the foregoing noncompliance will impact motor vehicle safety for the following reasons:

(1) Only a very limited number of Mercedes-Benz CL500 vehicles were produced containing the foregoing noncompliance (613 units). This number represents only minimal percentage of all vehicles operating in the United States.

(2) Upper beam headlamps are not legal in States for operation in the presence of oncoming traffic. Therefore, the higher output upper beam headlamps will likely not even be noticed by other drivers or vehicle occupants. Moreover, MBUSA believes that the approximately 20% increase in upper beam headlamp output in affected CL500's is indistinguishable to occupants of oncoming vehicles.

(3) With regards to the driver of the affected vehicles, MBUSA believes that the increase in output for upper beam headlamps may actually enhance vehicle safety in that drivers will have a greater view down the road thereby providing earlier warning of obstacles in the vehicle's intended path of travel.

MBUSA has not received, nor is the Company aware of, any complaints, accidents or injuries caused by the higher output upper beam headlamps.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: November 3, 2000.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: September 28, 2000.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 00–25436 Filed 10–3–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Actions on Exemption Applications

AGENCY: Research and Special Programs Administration, DOT

ACTION: Notice of actions on Exemption Applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the actions on exemption applications in May–August 2000. The modes of transportation involved are identified by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions. It should be noted that some of the sections cited were those in effect at the time certain exemptions were issued.

Issued in Washington, DC, on September 28, 2000.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Modification Exemptions		
8723–M	DOT–E 8723	Austin Powder Company, Cleveland, OH.	49 CFR 172.101, 173.242, 173.62, 176.83, 177.848.	To modify the exemption to allow for an additional tote bin packaging for the transportation in commerce of bulk shipments of certain blasting agents.
9830–M	DOT–E 9830	Worthington Cylinder Corporation, Columbus, OH.	49 CFR 173.201, 173.202, 173.203, 173.302(a), 173.304(a), 173.304(d), 175.3.	To modify the exemption to allow for the transportation of Class 3 and Division 6.1 materials in non-DOT specification stainless steel cylinders designed in part with DOT Specification 4BA cylinders.
10555–M	DOT–E 10555	Pacific Scientific, HTL/KIN-Tech Division, Duarte, CA.	49 CFR 173.304(a)(1), 175.3	To modify the exemption to allow for the transportation of an additional Division 2.2 material in an alternative non-DOT specification cylinder.
10595–M	DOT–E 10595	Allied Universal Corp., Miami, FL	49 CFR 176.67(i), (j)	To modify the exemption to allow for the transportation of Class 8 materials in tanks cars, to remain standing with unloading connections attached when no product is being transferred.
10704–M	DOT–E 10704	Puritan-Bennett Medical Gases (Mallinckrodt, Inc.), Overland Park, KS.	49 CFR 173.302(a), Part 172, Part 172, Subpart C, E & F, Part 174, Part 177.	To modify the exemption to allow for calibration and functional checks of medical analyzers or monitors; lower minimum burst pressure to 340 psig.
10832–M	DOT–E 10832	Autoliv ASP, Inc., Ogden, UT	49 CFR 173.56(b), 173.61(b), Part 172, Subpart D, E.	To modify the exemption to include two additional manufacturing sites for the transportation for disposal of unapproved waste explosive materials used in passive restraint systems.
11327–M	DOT–E 11327	Phoenix Services Limited Partnership, Pasadena, MD.	49 CFR 172.101 Column (8b), (8c), 173.197.	To modify the exemption to include changes to the packaging system for the transportation of regulated medical waste in non-DOT specification dual packaging.
11327–M	DOT–E 11327	Phoenix Services Limited Partnership, Pasadena, MD.	49 CFR 172.101 Column (8b), (8c), 173.197.	To modify the exemption to allow for the use of an additional container design type for the transportation of regulated medical waste.
11406–M	DOT–E 11406	Conf. of Radiation Control Program Directors, Inc., Frankfort, KY.	49 CFR 173.22(a)(1), 177.842, Part 172, Subparts C, D, E, F, G, H, Part 173, Subparts B, I, Part 174, Subpart K.	To modify the exemption to revise approval provisions and documentation required for shipments of waste or recycled materials, Class 7.
11548–M	DOT–E 11548	Lyondell Chemical Co/Equistar Chemicals, LP, Houston, TX.	49 CFR 173.187, 173.211, 173.212, 173.213.	To modify the exemption to allow for the transportation of additional Division 4.1 and Division 4.2 materials in DOT Specification cylinders except Specification 8 and 3HT.
11722–M	DOT–E 11722	CITERGAS, S.A., Civray, FR	49 CFR 173.302	To modify the exemption to permit new construction of the non-DOT specification spherical pressure vessels and additions to the product list.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11749–M	DOT–E 11749	Union Tank Car Company, East Chicago, IN.	49 CFR 172.203(a), 172.302(c), 180.509(e).	To modify the exemption to change the requirements for shippers holding party status and the need for them to maintain a copy of the exemption at their facilities.
11749–M	DOT–E 11749	Union Tank Car Company, East Chicago, IN.	49 CFR 172.203(a), 172.302(c), 180.509(e).	To modify the exemption to allow for the use of acoustic emission for specific areas of a tank car in conjunction with other non-destructive test methods for structural integrity inspections.
11761–M	DOT–E 11761	Westvaco Corporation, Richmond, VA.	49 CFR 172.302(c), 173.31(d)(1)(vi).	To modify the exemption to allow for the transportation of additional Class 8 materials in certain DOT specification and AAR specification tank cars; to allow relief from the marking requirements.
11761–M	DOT–E 11761	Vulcan Chemicals, Birmgingham, AL.	49 CFR 172.302(c), 173.31(d)(1)(vi).	To modify the exemption to eliminate the marking requirements of certain DOT specifications and AAR specifications tank cars containing a residue of Class 8 materials.
11777–M	DOT–E 11777	Autoliv ASP, Inc., Ogden, UT	49 CFR 173.301(h), 173.302	To modify the exemption to authorize a design change to allow for side wall attachment studs on a non-DOT specification pressure vessel.
12132–M	DOT–E 12132	Carleton Technologies, Inc., Orchard Park, NY.	49 CFR 173.302(a)(1), 175.3, 178.35, 178.65.	To modify the exemption to allow for a design change of the hermetically sealed high pressure gas cylinder containing Division 2.2 argon gas.
12189–M	DOT–E 12189	Automotive Recyclers Association, Fairfax, VA.	49 CFR 173.166(c)(5)	To modify the exemption to allow for rail freight and cargo vessel as authorized modes of transportation for shipments of air bag modules or seat belt pretensioners.
12221–M	DOT–E 12221	Advanced Technology Materials, Inc. (ATMI), Danbury, CT.	49 CFR 173.192, 173.302, 173.304.	To modify the exemption to authorize non-DOT specification containers to be constructed of stainless steel; smaller initial capacity size for specific lab containers; and the inclusion of Division 2.2, 6.1 and additional Division 2.3 materials.
12378–M	DOT–E 12378	Federal Express Corporation, Memphis, TN.	49 CFR 172.203(a), 172.301(c), 175.33.	To modify the exemption to eliminate the recordkeeping requirements outlines in the exemption for the transportation of dry ice not meeting the exceptions identified in Section 175.10.
12378–M	DOT–E 12378	Federal Express, Memphis, TN	49 CFR 172.203(a), 172.301(c), 175.33.	To modify the exemption to indicate applicability to companies under subcontract operating under exclusive use for Federal Express for the transportation in commerce of dry ice by cargo aircraft only.
12399–M	DOT–E 12399	BOC Gases, Murray Hill, NJ	49 CFR 173.34(e)(1), 173.34(e)(14), 173.34(e)(15)(vi), 173.34(e)(3), 173.34(e)(4), 173.34(e)(8).	To modify the exemption to amend the equipment performance and test procedure language authorizing the use of an alternative test method for certain DOT Specification 3AL cylinders for the transportation of compressed gases.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12447–M	DOT–E 12447	Akzo Nobel Coatings, Inc., Norcross, GA.	49 CFR 172.407(c)(1)	To reissue the exemption originally issued on an emergency basis authorizing the use of hazard warning labels that do not conform with the specifications in the HMR.
12448–M	DOT–E 12448	Onyx Environmental Services, L.L.C., Flanders, NJ.	49 CFR 173.304(a)(2)	To reissue the exemption originally issued on an emergency basis for the transportation of anhydrous ammonia in DOT specification cylinders.
12463–M	DOT–E 12463	Washington State Ferries, Seattle, WA.	49 CFR 172.101 Column (10), 172.301(c), 172.302(c), 173.302(a).	To reissue the exemption originally issued on an emergency basis for the transportation of oxygen, refrigerated liquid, in insulated cylinders or insulated cargo tanks aboard passenger vessels.
12106–N	DOT–E 12106	Air Liquide America Corporation, Houston, TX.	49 CFR 173.24(g), 173.314(o)	To authorize the venting of a DOT-specification 105A400W tank car used for the transportation of carbon dioxide, Division 2.2. (mode 2)
12205–N	DOT–E 12205	Independent Chemical Corp., Glendale, NY.	49 CFR 177.848	To authorize the transportation in commerce of Division 4.2 and Class 8 material inside poly bags within plastic lined UN 1G/Y fiber drums to be transported exempt from segregation criteria. (mode 1)
12292–N	DOT–E 12292	Westway Trading Corporation, New Orleans, LA.	49 CFR 179.12	To authorize the one-time transportation in commerce of a loaded non-hazardous material railcars containing broken interior steam coils. (mode 2)
12297–N	DOT–E 12297	Applied Companies, Valencia, CA	49 CFR 173.302	To authorize the transportation in commerce of non-DOT specification cylinders for aircraft use constructed of stainless steel with a psi maximum service pressure that exceeds the requirement for use in transportation Division 2.2 material. (mode 4)
12325–N	DOT–E 12325	Lifeline Technologies, Inc., Sharon Hill, PA.	49 CFR 172.302(c), 174.67(i), (j) ..	To authorize an alternative monitoring system during unloading of various hazardous materials without the physical presence of an unloader. (mode 2)
12341–N	DOT–E 12341	Space Systems/Loral, Palo Alto, CA.	49 CFR 173.302	To authorize the transportation in commerce of non-DOT Specification cylinders pressurized to a low storage pressure with Division 2.2 material. (modes 1, 4)
12350–N	DOT–E 12350	BAC Technologies, Ltd, West Liberty, OH.	49 CFR 173.302(a), 173.304(a), 173.34, 175.3.	To authorize the manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinders for the transportation in commerce of certain compressed gases. (modes 1, 2, 3, 4, 5)
12356–N	DOT–E 12356	Memorial Healthcare System, Pembroke Pines, FL.	49 CFR 172.101 Columns (8b), (8c), 173.197.	To authorize the transportation in commerce of Regulated medical waste, Division 6.1, in polyethylene bags overpacked in non-DOT specification bulk bins. (mode 1)
12370–N	DOT–E 12370	Eurotainer US, Inc., Somerset, NJ	49 CFR 173.242(c)	To authorize the transportation in commerce of Division 4.2 and 6.1 hazardous materials in IM–101 portable tanks. (modes 1, 2, 3)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12383–N	DOT–E 12383	Sealift Inc., Oyster Bay, NY	49 CFR 176.116(e)(3)	To authorize the transportation in commerce of Class 1 explosives onboard cargo vessel to be exempt from stowage requirements. (mode 3)
12385–N	DOT–E 12385	Maine Yankee Atomic Power Co., Wiscasset, ME.	49 CFR 173.403, 173.427(a)	To authorize the transportation in commerce of steam generators and pressurizer packages containing radioactive components. (modes 1, 3)
12386–N	DOT–E 12386	Maine Yankee Atomic Power Co., Wiscasset, ME.	49 CFR 173.411, 173.427(a)(1), 173.465.	To authorize the transportation in commerce of an atomic power station reactor pressure vessel. (modes 1, 2)
12388–N	DOT–E 12388	Mountain Safety Research, Seattle, WA.	49 CFR 173.304(d)(3)(ii), 178.33 ..	To authorize the transportation in commerce of a non-DOT specification container conforming to DOT specification 2P, except for size, testing requirements, and markings, for use in transporting Division 2.1 material. (modes 1, 2, 3, 4)
12390–N	DOT–E 12390	Industrial Metals, Beaumont, TX ..	49 CFR 172.203(a), 173.242	To authorize the transportation in commerce of IM–101 portable tanks equipped with alternative relief value for use in transporting Class 3 material. (modes 1, 3)
12396–N	DOT–E 12396	United States Alliance, Houston, TX.	49 CFR 173.302(a), 173.34(d), 175.3.	To authorize the transportation in commerce of a non-DOT specification cylinder as part of a specifically designed device for space flight for use in transporting Nitrogen, Division 2.2. (modes 1, 4)
12398–N	DOT–E 12398	Praxair, Danbury, CT	49 CFR 173.34(d), 178.35(e)	To authorize the transportation in commerce of DOT 3A and 3AA cylinders equipped with alternative relief devices for use in transporting Division 2.2 material. (modes 1, 2)
12399–N	DOT–E 12399	BOC Gases, Murray Hill, NJ	49 CFR 173.34(e)(1), 173.34(e)(14), 173.34(e)(15)(vi), 173.34(e)(3), 173.34(e)(4), 173.34(e)(8).	To authorize the use of ultrasonic inspection as an alternative retest method for DOT Specification 3AL cylinders. (modes 1, 2, 3)
12402–N	DOT–E 12402	Taylor-Wharton, Huntsville, AL	49 CFR 172.203(a), 172.301(c), 178.35(f)(2)(i), 178.39(e).	To authorize the manufacture, marking and sale of non-DOT specification cylinders (comparable to DOT Specification 3BN cylinders) equipped with an alternative bottom plug for use in transporting presently authorized hazardous materials. (modes 1, 2, 3, 4, 5)
12407–N	DOT–E 12407	Qual-X, Inc., Powell, OH	49 CFR 173.403, 173.410, 173.412, 173.465, 173.466.	To authorize the transportation in commerce of a specially designed device containing Class 7 hazardous materials. (mode 1)
12411–N	DOT–E 12411	International Fuel Cells, South Windsor, CT.	49 CFR 173.212	To authorize the transportation in commerce of dry metal catalysts classified as, Self-heating, solid, inorganic, n.o.s., Division 4.2, in non-DOT specification packaging. (modes 1, 3, 4)
12414–N	DOT–E 12414	Med-Flex, Inc., Mt. Holly, NJ	49 CFR 172.101 Columns (8b), (8c), 173.197.	To authorize the transportation in commerce of solid regulated medical waste in non-DOT specification packaging consisting of a bulk outer packaging and non-bulk inner packagings. (mode 1)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12415–N	DOT–E 12415	Canberra Industries, Meriden, CT	49 CFR 173.302, 175.3	To authorize the manufacture, mark, sale and use of non-DOT specification containers described as hermetically-sealed electron tube devices for use in transporting various Division 2.2 material. (modes 1, 2, 3, 4, 5)
12423–N	DOT–E 12423	Reagent Chemical & Research, Inc., Houston, TX.	49 CFR 172.203(a), 179.13	To authorize the transportation in commerce of DOT 111A100W5 tank cars that exceed the authorized load capacity for use in transporting hydrochloric acid, Class 8. (mode 2)
12429–N	DOT–E 12429	National Aeronautics & Space Administration (NASA), Washington, DC.	49 CFR 172.203(a), 172.301(c), 173.309.	To authorize the transportation of carbon dioxide in flight certified, cylindrical portable fire extinguishers used as part of a specially designed device for the Space Station Program. (mode 1)
12431–N	DOT–E 12431	TITEQ Corp., Palmdale, CA	49 CFR 172.302, 173.304, 175.3	To authorize the manufacture, marking, and sale of a reusable non-DOT specification, welded stainless steel cylinder for use in transportation of certain Division 2.2 materials. (modes 1, 2, 4, 5)
12432–N	DOT–E 12432	Toxco Inc., Anaheim, CA	49 CFR 171.14(a)(1)	To authorize the transportation in commerce of Class 8 material in non-UN packaging after October 1, 2001 that was filled prior to October 1, 1991. (mode 1)
12437–N	DOT–E 12437	Stericycle, Inc., Atlanta, GA	49 CFR 172.101 Columns (8b), (8c), 173.197.	To authorize the transportation in commerce of non-DOT specification steel roll-off containers as outer packagings for use in transporting medical waste in dual packaging. (mode 1)
12442–N	DOT–E 12442	Cryogenic Vessel Alternatives, La Porte, TX.	49 CFR 176.76(g)(1), 178.318	To authorize the transportation in commerce of liquid nitrogen, cryogenic liquid, Division 2.2 in insulated portable tanks by cargo vessel for delivery to oil and gas production facilities. (modes 1, 3)
12449–N	DOT–E 12449	Chlorine Service Company, Kingswood, TX.	49 CFR 173.314	To authorize the manufacture, marking and sale of a non-DOT specification pressure vessel for use in transporting compressed gases classed in Division 2.1 and 2.2. (modes 1, 2, 3)
12450–N	DOT–E 12450	Chlorine Service Company, Kingswood, TX.	49 CFR 173.314	To authorize the manufacture, marking and sale of a non-DOT specification pressure vessel for use in transporting chlorine, Division 2.3. (modes 1, 2, 3)
12452–N	DOT–E 12452	CA Dept. of Health Services, Berkeley, CA.	49 CFR 172.301(a), 172.301(b), 172.301(c), 173.196, Subpart C of Part 172.	To authorize the transportation in commerce of biological specimens classed as infectious substance (Etiologic agent) in specially designed packagings inside mechanical freezers. (mode 1)
12483–N	DOT–E 12483	Security Disposal Inc., Waycross, GA.	49 CFR 172.101 Columns (8b), (8c), 173.197.	To authorize the transportation in commerce of solid regulated medical waste, Division 6.2, in a non-DOT specification packaging consisting of a bulk outer packaging and non-bulk inner packagings. (mode 1)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12492–N	DOT–E 12492	Honeywell International Inc., Morristown, NJ.	49 CFR 173.304(a)(1)	To authorize the transportation in commerce of liquefied gas, n.o.s., Division 2.2 in DOT–3AL 1800 cylinders. (modes 1, 2, 3)
		Emergency Exemptions		
EE 8178–M	DOT–E 8178	NASA, Washington, DC	49 CFR 173.302(a), 173.34(d), 175.3.	Request for emergency mod to extend the life cycle of the primary oxygen bottles to 25 years or 375 pressurizations. (modes 1, 4)
EE 9275–P	DOT–E 9275	Blissworld, Brooklyn, NY	49 CFR Parts 100–199	To become a party to exemption 9275. (modes 1, 2, 3)
EE 9791–M	DOT–E 9791	Pressed Steel Tank Co., Inc., Milwaukee, WI.	49 CFR 173.301(h), 173.302(a), 173.34(a)(1).	Request for authorization for an additional grade of steel used in the manufacture of non-DOT spec. cylinders. (mode 1)
EE 10926–M	DOT–E 10926	Radcal Corporation, Monrovia, CA	49 CFR 173.302, 173.34(d), 175.3	To modify the exemption to authorize the manufacture, marking, sale and use of non-DOT specification radiation monitors without a safety relief device, which have passed an additional drop test procedure, for the transportation of argon, compressed. (modes 1, 4, 5)
EE 11103–M	DOT–E 11103	Space Systems/Loral, Palo Alto, CA.	49 CFR 107.302	To modify the exemption to allow for an alternate landing site for the GOES weather satellite containing non-DOT specification spherical containers pressurized with certain Division 2.2 materials. (mode 1)
EE 12453–M	DOT–E 12453	EQ-The Environmental Quality Company, Wayne, MI.	49 CFR 172. 302(c), 173.24b(d)(2), 173.26.	Extended exemption to provide for shipment of two additional overloaded rail cars. (mode 2)
EE 12458–N	DOT–E 12458	Bimax Inc., Cockeysville, MD	49 CFR 172.301(c), 173.227(c)	Request for an emergency exemption to transport non-DOT specification drums containing a div. 6.1 material. (mode 1)
EE 12459–N	DOT–E 12459	Alaska Pacific Powder Co., Olympia, WA.	49 CFR 172.101 Column (9), 175.320(a).	Request for an emergency exemption to transport explosives by air. (mode 4)
EE 12462–N	DOT–E 12462	Rinchem Company, Albuquerque, NM.	49 CFR 173.24	Request for an emergency exemption for a one-time movement of sulfuric acid contained in a leaking tote (bulk) container. (mode 1)
EE 1244–N	DOT–E 12463	Washington State Ferries, Seattle, WA.	49 CFR 172.101 Column (10), 172.301(c), 172.302(c), 173.302(a).	Request for an emergency exemption for the movement of oxygen in insulated cylinders or cargo tanks on passenger vessels. (mode 3)
EE 12464–N	DOT–E 12463	DPC Enterprises, Inc., Houston, TX.	49 CFR 173.24(b), 179.300–12(b), 179.300–13(a), 179.300–14.	Request for a one-time emergency exemption to transport a leaking ton container fitted with a ''B'' kit. (mode 1)
EE 12467–N	DOT–E 12467	Allied Universal Corp., Miami, FL	49 CFR 173.34(d)	Request for an emergency exemption for a one-time transport of a leaking cylinder that has been fitted with a chlorine institute A kit. (mode 1)
EE 12478–N	DOT–E 12478	American Reclamation Group, LLC, Anchorage, AK.	49 CFR 172.101 Columns (9b), 172.301(c), 173.27(c)(2).	Request for an emergency exemption for the one-time transportation in commerce of hydrogen peroxide aqueous solution by cargo aircraft, which is forbidden. (mode 1)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 12480–N	DOT–E 12480	Allied Universal Corp., Miami, FL	49 CFR 173.24(b), 179.300–12(b), 179.300–13(a), 179.300–14.	Request for an emergency exemption for the one-time transportation of a leaking ton container fitted with a chemical B kit to prevent leakage during transportation. (mode 1)
EE 12482–N	DOT–E 12482	Chemical Waste Management Co., Sulphur, LA.	49 CFR 172.302(c), 173.24b(d)(2), 173.26.	Request for an emergency exemption for the one-time transportation of 3 overweight gondola rail cars. (mode 2)
EE 12484–N	DOT–E 12484	Safety Kleen, Columbia, SC	49 CFR 173.244(c)	Request for an emergency exemption to transport 2 storage tanks containing sodium. The tanks are not an authorized packaging. (mode 1)
EE 12486–N	DOT–E 12486	International Paper, Griffin, GA	49 CFR 172.203(a), 172.301(a)(1), 172.303(c), 178.503(a)(6).	Request for an emergency exemption to use existing stock of mis-marked UN bags that contain ammonium nitrate fertilizer. (mode 1)
EE 12487–N	DOT–E 12487	DPC Industries, Houston, TX	49 CFR 173.24(b), 179.300–12(b), 179.300–13(a), 179.300–14.	Request for an emergency exemption for the one-time transportation of a leaking multi-unit tank car tank containing chlorine, that has been fitted with a chemical ''B'' kit. (mode 1)
EE 12488–N	DOT–E 12488	JCI Jones Chemicals, Inc., Charlotte, NC.	49 CFR 173.24(b), 179.300–12(b). 179.300–13(a), 179.300–14.	Request for an emergency exemption for the one time transportation in commerce of a leaking tank car tank that is equipped with a Chemical B kit to prevent leakage during transportation. (mode 1)
EE 12489–N	DOT–E 12489	Solvay Interox, Houston, TX	49 CFR 173.24(d)(2)	Request for an emergency exemption for the one-time transportation of an over-loaded tank car tank that exceeds the weight limitation for that car. (mode 2)
EE 12490–N	DOT–E 12490	Hydrite Chemical, Lake Zurich, IL	49 CFR 172.302(c), 173.24b, 173.26.	Request for a one-time authorization to ship a leaking ton cylinder fitted with an A Kit. (mode 1)
EE 12498–N	DOT–E 12498	Cook Inlet Pipe Line Co., Anchorage, AK.	49 CFR 172.101 Column (9b), 172.301(c), 173.27(c)(2).	Request for an emergency exemption for the one-time transportation in commerce of a 5.1 material by aircraft. The quantity limitations and chemical concentration exceed those in the HMR. (mode 4)
EE 12499–N	DOT–E 12499	M&M Service Co., Carlinville, IL ...	49 CFR 173.315(k)(6)	Request for an emergency exemption to transport liquefied petroleum gas in a non-DOT specification cargo tank. (mode 1)
EE 12500–N	DOT–E 12500	National Propane Gas Association, Washington, DC.	49 CFR 173.315(a), 178.245–4(e)	To authorize the one-time one-way transportation of non-DOT specification portable tanks containing residual amounts of liquefied petroleum gas for the purpose of requalifcation and recertification. (modes 1, 3)
EE 12501–N	DOT–E 12501	Northland Services, Inc., Seattle, WA.	49 CFR 178.245–4(e)	Request for an emergency exemption to transport propane in DOT spec. 51 tanks that technically do not meet the definition of the spec. (mode 3)
EE 12503–N	DOT–E 12503	Chemical Waste Management, Sulphur, LA.	49 CFR 172.302(c), 173.24b(d)(2), 173.26.	Request for an emergency exemption to transport 3 overloaded gondola cars. (mode 2)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 12505–N	DOT–E 12505	Allied Universal Corp., Miami, FL	49 CFR 173.34(d)	Request for a one-time emergency exemption to transport a leaking ton cylinder containing chlorine that has been equipped with a Chlorine Institute Emergency A kit. (mode 1)
EE 12507–N	DOT–E 12507	DPC Industries, Inc., Houston, TX	49 CFR 172.302(c), 173.24(b), 179.300–12(b), 179.300–13(a), 179.300–14.	Request for emergency exemption to transport a leaking ton cylinder equipped with a chemical B kit. (mode 1)
EE 12508–N	DOT–E 12508	BASF, Mt. Olive, NJ	49 CFR 172.101 Column (7) special provision B6, 172.102(c)(3).	Request for a one-time authorization to transport a class 8 material in a UN IBC, which is not an authorized packaging for the material. (mode 1)
EE 12509–N	DOT–E 12509	U.S. Department of Defense, Washington, DC.	49 CFR 172.101 col. 10A	Request for an emergency exemption to authorize the US DOD to stow palletized cargo of a class 4.2 in an under deck forecastle location instead of on deck. (mode 3)
EE 12510–N	DOT–E 12510	DPC Enterprises, LP, Houston, TX	49 CFR 173.34(d)	To authorize the emergency one-time transportation in commerce of a DOT specification 3A480 cylinder containing chlorine. (mode 2)
EE 12511–N	DOT–E 12511	IMCO Recylcing, Inc., Irving, TX ..	49 CFR 173.24b(d)(2), 173.26	To authorize the emergency transportation in commerce of a rail box car transporting Aluminum Remelting By Products that exceed the maximum gross weight on rail by 3,600 pounds. (mode 2)
EE 12512–N	DOT–E 12512	Alaska Airlines, Seattle, WA	49 CFR 172.203(a), 172.301(c), 172.303(a), 172.401(a)(1) and (2).	Request for an emergency exemption to conduct compliance testing of Alaska Airlines; hazardous materials acceptance, storage, and handling procedures. (mode 4)
EE 12513–N	DOT–E 12513	Sterling Chemicals Inc., Texas City, TX.	49 CFR 172.302(c), 173.24b(d)(2), 173.26.	Request for an emergency exemption to authorize the transportation of an overloaded rail car. (mode 2)
EE 12514–N	DOT–E 12514	SMI Steel, Cayce, SC	49 CFR 172.302(c), 173.24b(d)(2), 173.26.	Request for an emergency exemption to transport an overloaded hopper rail car. (mode 2)
EE 12524–N	DOT–E 12524	EQ—The Environmental Quality Company, Wayne, MI.	49 CFR 172.302(c), 173.24b(d)(2), 173.26.	Request for an emergency exemption to transport an overloaded gondola rail car. (mode 2)
EE 12528–N	DOT–E 12528	Permagas, Lake Stevens, WA	49 CFR 178.245–4(e), 450.3(a)(2)	To authorize the transportation in commerce of an MC–330 tank welded into a 40ft intermodal container for use in transporting propane, Division 2.1 to remote areas. (modes 1, 3)
EE 12529–N	DOT–E 12529	BP Chemicals Inc., Naperville, IL	49 CFR 172.302(c), 173.24b(d)(2), 173.26.	Request for an emergency exemption to transport an overweight rail car. (mode 2)
EE 12543–N	DOT–E 12543	JCI Jones Chemicals, Inc., Jacksonville, FL.	49 CFR 1 2 3	To authorize emergency transportation in commerce of a DOT 3A 480 Specification container that contains Chlorine that is leaking at the value to be transported with an approved A-Kit. (mode 1)

Denials	
6611–M	Request by Gardner Cryogenics Lehigh Valley, PA to modify the exemption to provide for design changes of a non-DOT specification vacuum insulated portable tank manufactured in accordance with ASME Code criteria resulting in an increase of the Maximum Allowable Working Pressure for the transportation of a nonflammable cryogenic liquid denied May 16, 2000.
6765–M	Request by Gardner Cryogenics Lehigh Valley, PA to modify the exemption to provide for design changes of the non-DOT specification portable tanks manufactured in accordance with the ASME Code criteria resulting in an increase of the Maximum Allowable Working Pressures for the transportation of a Division 2.1 and a Division 2.2 material denied May 16, 2000.
10480–M	Request by Gardner Cryogenics Lehigh Valley, PA to modify the exemption to provide for design changes of a non-DOT specification portable tank manufactured in accordance with ASME Code criteria resulting in an increase of the Maximum Allowable Working Pressures; the addition of a 6700 gallon liquid helium tank denied May 16, 2000.
10821–M	Request by BFI Waste Systems of North America, Inc. Atlanta, GA to modify the exemption to relieve the marking requirements of inner packages, inside roll off containers, when transporting regulated medical waste from a single offeror denied May 16, 2000.
11826–M	Request by Spectra Gases, Inc. Branchburg, NJ to modify the exemption to authorize additional Division 2.2 materials transported in DOT–3AL aluminum cylinders denied July 28, 2000.
12155–M	Request by S&C Electric Company Chicago, IL to modify the exemption to authorize an alternative pressure vessel constructed of spirally-wound fiberglass for the transportation of certain Division 2.2 materials denied August 17, 2000.

[FR Doc. 00–25426 Filed 10–3–00; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration (RSPA)

[Notice No. 00–11]

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Advisory Notice.

SUMMARY: Until recently, Q3 Comdyne, Inc. held four exemptions authorizing the manufacture, mark and sale of non-DOT specification fiber reinforced plastic (FRP) full composite (FC) cylinders. Recently, RSPA (we) was informed that Q3 Comdyne, Inc., is no longer in business. We are issuing this advisory notice to (1) provide information concerning the current requirements for transportation of the cylinders under exemption, and (2) inform the owners and users of these cylinders of the actions we have taken to date and plan to take in the future.

FOR FURTHER INFORMATION CONTACT: Sherrie Nelson, Office of Hazardous Materials Exemptions and Approvals, RSPA, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001, Telephone (202) 366–4535.

SUPPLEMENTARY INFORMATION: Recently, RSPA was notified by Q3 Comdyne, Inc. that it is no longer in business. Q3 Comdyne, Inc. was the grantee of four exemptions (E–9716, E–10823, 10256, and E–10905) authorizing the manufacture, mark, and sale (MMS) of FRP cylinders. After receiving several applications for renewal from cylinder owners and users and in light of Q3 Comdyne's current business status, we have modified DOT E–9716 and 10256 by converting them from MMS exemptions to ''offeror'' exemptions. The exemption change permits the continued use of the Comdyne exemption cylinders. Determination of whether party status is required on any of these exemptions is based on the following criteria: (1) A person filling and offering a cylinder for transportation in commerce would be required to have party status; (2) A person only reoffering a cylinder without modifying or changing the cylinder or its contents would not require party status. The requirements for exemption renewal are applicable to both the grantee and persons holding party status in accordance with 49 CFR 107.109. A fire department filling and offering a cylinder, containing a hazardous material, for transportation that is not in commerce is not required to have party status to the exemption. However, we do recommend each person who uses an exemption package maintain a current copy of the exemption. Current copies of DOT–E 9716 and 10256 are available on the HazMat Safety Homepage at http://hazmat.dot.gov.

Issued in Washington, DC on September 28, 2000.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 00–25448 Filed 10–3–00; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33936]

Lapeer Industrial Railroad Company-Acquisition and Operation Exemption-Adrian & Blissfield Rail Road Company

Lapeer Industrial Railroad Company (LIRR), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 1.34 miles of rail line owned by Adrian & Blissfield Rail Road Company (ADBF). The line, known as the ''Lapeer Spur,'' is part of Grand Trunk Western Railroad Incorporated's (GTW) Lapeer Subdivision at Lapeer, in Lapeer County, MI, and runs between milepost 56.28 and milepost 57.62. LIRR will also acquire the right to operate approximately .88 miles of rail line which ADBF currently leases from GTW, known as the ''Flint Subdivision'' at Lapeer, in Lapeer County, MI. The leased line is part of GTW's second main line, and runs between milepost 289.90 and milepost 290.78.[1] LIRR certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier, and further certifies that its projected annual revenues will not exceed $5 million.

The transaction is expected to be consummated on or shortly after September 28, 2000.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33936, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Kenneth J. Bisdorf, 2301 West Big Beaver Road, Suite 600, Troy, MI 48084–3329.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 26, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–25244 Filed 10–2–00; 8:45 am]
BILLING CODE 4915–00–P

[1] *See* Adrian & Blissfield Rail Road Company-Acquisition Exemption-Grand Trunk Western Railroad Incorporated, STB Finance Docket No. 33747 (STB served June 3, 1999).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33935]

Detroit Connecting Railroad Company—Acquisition and Operation Exemption—Adrian & Blissfield Rail Road Company

Detroit Connecting Railroad Company (DCON), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 2.27 miles of rail line owned by Adrian & Blissfield Rail Road Company. The line, known as the ''Dequindre Line,'' is part of Grand Trunk Western Railroad Incorporated's Holly Subdivision at Detroit, Wayne County, MI, and runs between milepost 1.77 and milepost 4.04. [1] DCON certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier, and further certifies that its projected annual revenues will not exceed $5 million.

The transaction is expected to be consummated on or shortly after September 28, 2000.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33935, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Kenneth J. Bisdorf, 2301 West Big Beaver Road, Suite 600, Troy, MI 48084–3329.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 26, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–25245 Filed 10–4–00; 8:45 am]

BILLING CODE 4915–00–P

[1] *See* Adrian & Blissfield Rail Road Company-Acquisition Exemption-Grand Trunk Western Railroad Incorporated, STB Finance Docket No. 33692 (STB served Dec. 28, 1998).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33937]

Charlotte Southern Railroad Company-Acquisition and Operation Exemption-Adrian & Blissfield Rail Road Company

Charlotte Southern Railroad Company (CHS), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 3.22 miles of rail line owned by Adrian & Blissfield Rail Road Company. The line, known as the ''Charlotte Spur,'' is part of Grand Trunk Western Railroad Incorporated's Flint Subdivision at Charlotte, Eaton County, MI, and runs between milepost 21.24 and milepost 24.46.[1] CHS certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier, and further certifies that its projected annual revenues will not exceed $5 million.

The transaction is expected to be consummated on or shortly after September 28, 2000.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33937, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Kenneth J. Bisdorf, 2301 West Big Beaver Road, Suite 600, Troy, MI 48084–3329.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 26, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–25246 Filed 10–3–00; 8:45 am]

BILLING CODE 4915–00–P

[1] *See* Adrian & Blissfield Rail Road Company-Acquisition Exemption-Grand Trunk Western Railroad Incorporated, STB Finance Docket No. 33718 (STB served Mar. 3, 1999).

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–2: OTS Nos. H–2241, H–3609 and 07874]

Finger Lakes Bancorp, Inc., Geneva, New York; and Savings Bank of the Finger Lakes, Geneva, New York; Approval of Conversion Application

Notice is hereby given that on September 28, 2000, the Managing Director, Office of Supervision, Office of Thrift Supervision, or his designee, acting pursuant to delegated authority, approved the application of Finger Lakes Bancorp, Inc., Geneva, New York, and Savings Bank of the Finger Lakes, Geneva, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: September 29, 2000.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 00–25451 Filed 10–3–00; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Research and Development Cooperative Studies Evaluation Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) as amended, by section 5(C) of Public Law 94–409, that a meeting of the Research and Development Cooperative Studies Evaluation Committee will be held at The Madison Hotel, 15th & M Street NW, Washington, DC 20005, October 11–12, 2000. This session is scheduled to begin at 7:30 a.m. and end at 5 p.m. The meeting will be for the purpose of reviewing the following three new proposals: A Randomized Clinical Trial of Cognitive-Behavioral Treatment for PTSD in Women Veterans, Heart Failure in Patients with Preserved Systolic Function, and Tri-National Study—Optimal Management of Patients with HIV Infection of Whom 1st and 2nd Line Highly Active Anti-Retroviral Therapy Has Failed (OPTIMA).

The Committee advises the Chief Research and Development Officer

through the Director of the Cooperative Studies Program on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public from 7:30 a.m. to 8 a.m. to discuss the general status of the program. Those who plan to attend should contact Ms. Carla DeSpain, Coordinator, Department of Veterans Affairs, Washington, DC, at (202) 273–8274.

The meeting will be closed from 8 a.m. to 5 p.m. This portion of the meeting involves consideration of specific proposals in accordance with provisions set forth in 10(d) of Public Law 92.463, as amended by sections 5(C) of Public Law 94–409, and 5 U.S.C. 552b(C)(6). During the closed session of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research proposals, and similar documents, and the medical records of patients who are study subjects, the disclosures of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: September 28, 2000.

By Direction of the Acting Secretary.

Marvin R. Eason,

Committee Management Officer.

[FR Doc. 00–25489 Filed 10–3–00; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Voluntary Service National Advisory Committee, Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that the Executive Committee, Department of Veterans Affairs Voluntary Service (VAVS) National Advisory Committee (NAC) will meet October 24–25, 2000 at Double Tree Hotel at Reid Park, 445 South Alvernon Way, Tucson, AZ. The meeting is scheduled from 8 a.m. until 4:30 p.m. on October 24, 2000, and from 8 a.m. until 12 noon on October 25, 2000.

The NAC consists of sixty national organization and advises the Under Secretary for Health and other members of the Department of Veterans Affairs Central Office staff on how to coordinate and promote volunteer activities within VA facilities. The Executive Committee consists of nineteen representatives from the NAC member organizations and acts as the NAC governing body in the interim period between NAC Annual Meetings. Business topics for the October 24, 2000, morning session include: VHA update and a VAVS update of the Voluntary Service program's progress since the 2000 NAC Annual Meeting, Parke Board update, and review of the 2000 Annual Meeting Evaluations. The October 24, 2000, afternoon business session topics include: 55th Annual Meeting plans, and a tour of the Tucson, VAMC. The October 25, 2000, morning business session topics include: 2003 NAC Annual Meeting planning, membership report review recommendations approved at the 1999 NAC Annual Meeting, subcommittee reports, Standard Operating Procedure Revisions, New Business and EC Committee Appointments.

The meeting is open to the public. Individuals interested in attending are encouraged to contact: Ms. Laura Balun, Administrative Officer, Voluntary Service Office (10C2), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420, (202) 273–8392.

Dated: September 27, 2000.

By Direction of the Secretary.

Marvin R. Eason,

Committee Management Officer.

[FR Doc. 00–25490 Filed 10–3–00; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Wednesday,
October 4, 2000

Part II

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Request for Proposals (RFP): Special Research Grants Program, Potato Research; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Request for Proposals (RFP): Special Research Grants Program, Potato Research

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of Request for Proposals and Request for Input.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) announces the availability of grant funds and requests proposals for the Special Research Grants Program, Potato Research for fiscal year (FY) 2001. Subject to the availability of funds, the amount available for support of this program in FY 2001 is anticipated to be between approximately $1,330,000 and $1,425,000, subject to the enactment of the appropriations act that provides funds to CSREES.

This notice sets out the objectives for these projects, the eligibility criteria for projects and applicants, the application procedures, and the set of instructions needed to apply for a Potato Research Project grant.

CSREES also is soliciting comments regarding this request for proposals from any interested party. These comments will be considered in the development of the next request for proposals for this program. Such comments will be used in meeting the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA).

DATES: All proposals must be received at USDA on or before January 22, 2001. Proposals not received on or before this date will not be considered for funding.

User comments are requested within six months from the issuance of the request for proposals (RFP). Comments received after that date will be considered to the extent practicable (see Part VII. G.).

ADDRESSES: Proposals should be submitted to the following mailing address: Special Research Grants Program, Potato Research; c/o Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Ave., S.W.; Washington D.C. 20250–2245.

The address for hand-delivered proposals or proposals submitted using an express mail or overnight courier service is: Special Research Grants Program, Potato Research; c/o Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; First Floor, Waterfront Centre; 800 9th Street, S.W.; Washington D.C. 20024. Telephone: (202) 401–5048.

Written user comments should be submitted by mail to: Policy and Program Liaison Staff; Office of Extramural Programs; USDA–CSREES; STOP 2299; 1400 Independence Avenue, S.W.; Washington, D.C. 20250–2299; or via e-mail to: RFP-OEP@reeusda.gov. (This e-mail address is intended only for receiving stakeholder input comments regarding this RFP, and not for requesting information or forms.)

FOR FURTHER INFORMATION CONTACT: Dr. James Parochetti; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2220; 1400 Independence Avenue, S.W.; Washington, D.C. 20250–2220; telephone: (202) 401–4354; e-mail: jparochetti@reeusda.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

Part I—General Information

A. Legislative Authority

The authority for this program is contained in subsection (c)(1)(B) of section 2 of the Competitive, Special, and Facilities Research Grant Act, of Pub. L. No. 89–106, as amended (7 U.S.C. 450i(c)(1)(B)). Only section 3400.1, Applicability of regulations, Subpart C, Peer and Merit Review Arranged by Grantees, and Subpart D, Annual Reports, of the administrative regulations at 7 CFR part 3400 for the Special Grants Programs awarded under the authority of section 2(c) of this Act (7 U.S.C. 450i(c)) apply to grants solicited and awarded under subsection (c)(1)(B).

In accordance with the statutory authority, grants awarded under this program will be for the purpose of facilitating or expanding ongoing State-Federal food and agricultural research programs that—(i) promote excellence in research on a regional and national level; (ii) promote the development of regional research centers; (iii) promote the research partnership between the Department of Agriculture, colleges and universities, research foundations, and State agricultural experiment stations for regional research efforts; and (iv) facilitate coordination and cooperation of research among States through regional research grants.

B. Definitions

For the purpose of awarding grants under this program, the following definitions are applicable:

(1) *Administrator* means the Administrator of the Cooperative State Research, Education, and Extension Service (CSREES) and any other officer or employee of the Department to whom the authority involved is delegated.

(2) *Authorized departmental officer (ADO)* means the Secretary or any employee of the Department who has the authority to issue or modify grant instruments on behalf of the Secretary.

(3) *Authorized organizational representative (AOR)* means the

president, director, or chief executive officer or other designated official of the applicant organization who has the authority to commit the resources of the organization.

(4) *Budget period* means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(5) *Department or USDA* means the United States Department of Agriculture.

(6) *Grantee* means the entity designated in the grant award document as the responsible legal entity to which a grant is awarded.

(7) *Peer review panel* means an assembled group of experts or consultants qualified by training and experience in particular scientific or technical fields to give expert advice on the scientific and technical merit of grant applications in those fields.

(8) *Principal Investigator/Project Director* means the single individual designated in the grant application and approved by the Secretary who is responsible for the direction and management of the project. Note that a proposal may have multiple secondary co-principal investigators/project directors but only one principal investigator/project director.

(9) *Prior approval* means written approval evidencing prior consent by an ADO as defined in (2) above.

(10) *Project* means the particular activity within the scope of the program supported by a grant award.

(11) *Project period* means the total length of time that is approved by the Administrator for conducting the research project, as stated in the award document, during which Federal sponsorship begins and ends.

(12) *Scientific peer review* means an evaluation of a proposed project for technical quality and relevance to regional or national goals performed by experts with the scientific knowledge and technical skills to conduct the proposed research work. Peer reviewers may be selected from an applicant organization or from outside the organization, but shall not include principals, collaborators or others involved in the preparation of the application under review.

(13) *Secretary* means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved is delegated.

C. Eligibility

Proposals may be submitted by State agricultural experiment stations, land-grant colleges and universities, research foundations established by land-grant colleges and universities, colleges and universities receiving funds under the Act of October 10, 1962, as amended (16 U.S.C. 582a *et seq.*), and accredited schools or colleges of veterinary medicine. The proposals must be directly related to potato varietal development/testing. Although an applicant may be eligible based on its status as one of these entities, other factors may exclude an applicant from receiving Federal assistance under this program (*e.g.*, debarment or suspension, a determination of non-responsibility based on submitted organizational management information, etc.).

Part II—Program Description

A. Purpose of the Program

Proposals are invited for competitive grant awards under the Special Research Grants Program, Potato Research for FY 2001. The purpose of this grant program is to support potato research that focuses on varietal development/testing. As used herein, varietal development/testing is research using traditional and biotechnological genetics to develop improved potato variety(ies). Aspects of evaluation, screening and testing must support or complement the development of improved varieties. This program is administered by CSREES of USDA.

B. Available Funds and Award Limitations

Funds will be awarded on a competitive basis to support regional research projects that are composed of potato research that focuses on varietal development/testing. For purposes of this program, regional research means research having application beyond the immediate State in which the awardee resides and performs the project. The amount of funds available in FY 2001 for support of this program is anticipated to be between approximately $1,330,000 and $1,425,000 subject to the enactment of the appropriations act that provides funds to CSREES. Each proposal submitted in FY 2001 shall request funding for a period not to exceed one year. Funding for additional years will depend upon the availability of funds and progress toward objectives. FY 2001 awardees would need to recompete in future years for additional funding.

Under this program, the Secretary may extend grant awards for the support of research projects for up to three years to further the program.

C. Applicant Peer Review Requirements

Subsection (c)(5)(A) of the Competitive, Special, and Facilities Research Grant Act, as amended (7 U.S.C. 450i(c)(5)(A)) requires applicants to conduct a scientific peer review of a proposed research project in accordance with regulations promulgated by the Secretary prior to the Secretary making a grant award under this authority. Regulations implementing this requirement are set forth in 7 CFR 3400.20 and 3400.21. The regulations impose the following requirements for scientific peer review by applicants of proposed research projects:

1. Credible and independent. Review arranged by the grantee must provide for a credible and independent assessment of the proposed project. A credible review is one that provides an appraisal of technical quality and relevance sufficient for an organizational representative to make an informed judgment as to whether the proposal is appropriate for submission for Federal support. To provide for an independent review, such review may include USDA employees, but should not be conducted solely by USDA employees.

2. Notice of completion and retention of records. A notice of completion of the review shall be conveyed in writing to CSREES either as part of the submitted proposal or prior to the issuance of an award, at the option of CSREES (see Part III. R.). The written notice constitutes certification by the applicant that a review in compliance with these regulations has occurred. Applicants are not required to submit results of the review to CSREES; however, proper documentation of the review process and results should be retained by the applicant.

3. Renewal and supplemental grants. Review by the grantee is not automatically required for renewal or supplemental grants as defined in 7 CFR 3400.6. A subsequent grant award will require a new review if, according to CSREES, either the funded project has changed significantly, other scientific discoveries have affected the project, or the need for the project has changed. Note that a new review is necessary when applying for another standard or continuation grant after expiration of the grant term.

Part III—Content of a Proposal

All proposals must contain the following forms and narrative information to assist CSREES personnel during the review and award processes:

A. Application for Funding (Form CSREES–661)

Each copy of each grant proposal must contain an Application for Funding (Form CSREES–661). One copy of the application, preferably the original, must contain the pen-and-ink

signature(s) of the proposing principal investigator(s)/project director(s) and the AOR who possesses the necessary authority to commit the organization's time and other relevant resources to the project. Any proposed principal investigator or co-principal investigator whose signature does not appear on Form CSREES–661 will not be listed on any resulting grant award. Complete both signature blocks located at the bottom of the Application for Funding form.

Form CSREES–661 serves as a source document for the CSREES grant database; it is therefore important that it be completed accurately. The following items are highlighted as having a high potential for errors or misinterpretations:

1. Title of Project (Block 6). The title of the project must be brief (80-character maximum), yet represent the major thrust of the effort being proposed. Project titles are read by a variety of nonscientific people; therefore, highly technical words or phraseology should be avoided where possible. In addition, introductory phrases such as ''investigation of'' or ''research on'' should not be used.

2. Program to Which You Are Applying (Block 7). ''Special Research Grants Program, Potato Research'' should be inserted in this block. You may ignore the reference to a **Federal Register** announcement.

3. Program Area and Number (Block 8). The name of the program area, ''Potato Research,'' should be inserted in this block. You should ignore references to the program number and the **Federal Register** announcement.

4. Type of Request (Block 13). If the project being proposed is a renewal of a grant that has been supported under the same program at any time during the previous five fiscal years, it is important that you show the latest grant number assigned to the project by CSREES.

5. Principal Investigator(s)/Project Director(s) (Block 15). The designation of excessive numbers of co-principal investigators creates problems during final review and award processes. Listing multiple co-principal investigators, beyond those required for genuine collaboration, is therefore discouraged.

6. Type of Performing Organization (Block 18). A check should be placed in the box beside the type of organization which actually will carry out the effort. For example, if the proposal is being submitted by an 1862 land-grant institution but the work will be performed in a department, laboratory, or other organizational unit of an agricultural experiment station, box ''03'' should be checked. If portions of the effort are to be performed in several departments, check the box that applies to the individual listed as PI/PD #1 in Block 15.a.

7. Other Possible Sponsors (Block 22). List the names or acronyms of all other public or private sponsors including other agencies within USDA and other programs funded by CSREES to whom your application has been or might be sent. In the event you decide to send your application to another organization or agency at a later date, you must inform the identified CSREES program manager as soon as practicable. Submitting your proposal to other potential sponsors will not prejudice its review by CSREES; however, duplicate support for the same project will not be provided.

B. Table of Contents

For consistency and ease of locating information, each proposal submitted should contain a Table of Contents.

C. Objectives

Clear, concise, complete, and logically arranged statement(s) of the specific aims of the proposed effort must be included in all proposals. For renewal applications, a restatement of the objectives outlined in the active grant also should be provided.

D. Progress Report

If the proposal is a renewal of an existing project supported under the same program, include a clearly identified summary progress report describing the results to date. The progress report should contain the following information:

1. A comparison of actual accomplishments with the goals established for the active grant;

2. The reasons for slippage if established goals were not met; and

3. Other pertinent information, including, when appropriate, cost analysis and explanation of cost overruns or unexpectedly high unit costs.

E. Procedures

The procedures or methodology to be applied to the proposed effort should be explicitly stated. This section should include but not necessarily be limited to:

1. A description of the proposed investigations and/or experiments in the sequence in which it is planned to carry them out;

2. Techniques to be employed, including their feasibility;

3. Kinds of results expected;

4. Means by which data will be analyzed or interpreted;

5. Pitfalls which might be encountered; and

6. Limitations to proposed procedures.

F. Justification

This section should include in-depth information on the following, when applicable:

1. Estimates of the magnitude of the problem and its relevance to ongoing State-Federal food and agricultural research programs;

2. Importance of starting the work during the current fiscal year; and

3. Reasons for having the work performed by the proposing institution.

G. Cooperation and Institutional Units Involved

Cooperative and multi-state applications are encouraged. Identify each institutional unit contributing to the project. Identify each State in a multiple-state proposal and designate the lead State. When appropriate, the project should be coordinated with the efforts of other State and/or national programs. Clearly define the roles and responsibilities of each institutional unit of the project team, if applicable.

H. Literature Review

A summary of pertinent publications with emphasis on their relationship to the effort being proposed should be provided and should include all important and recent publications from other institutions, as well as those from the applicant institution. The citations themselves should be accurate, complete, and written in an acceptable journal format.

I. Current Work

Current unpublished institutional activities to date in the program area under which the proposal is being submitted should be described.

J. Facilities and Equipment

All facilities which are available for use or assignment to the project during the requested period of support should be reported and described briefly. Any potentially hazardous materials, procedures, situations, or activities, whether or not directly related to a particular phase of the effort, must be explained fully, along with an outline of precautions to be exercised. Examples include work with toxic chemicals and experiments that may put human subjects or animals at risk.

All items of major instrumentation available for use or assignment to the proposed project also should be itemized. In addition, items of nonexpendable equipment needed to

conduct and bring the project to a successful conclusion should be listed, including dollar amounts and, if funds are requested for their acquisition, justified.

K. Project Timetable

The proposal should outline all important phases as a function of time, year by year, for the entire project, including periods beyond the grant funding period.

L. Personnel Support

All senior personnel who are expected to be involved in the effort must be clearly identified. For each person, the following should be included:

1. An estimate of the time commitment involved;

2. Vitae of the principal investigator(s), senior associate(s), and other professional personnel. This section should include vitae of all key persons who are expected to work on the project, whether or not CSREES funds are sought for their support. Each vita should be limited to two (2) pages each in length, excluding publications listings; and

3. A chronological listing of the most representative publications during the past five years. This listing must be provided for each professional project member for whom a vita appears. Authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

M. Collaborative and/or Subcontractual Arrangements

If it will be necessary to enter into formal consulting or collaborative arrangements with other individuals or organizations, such arrangements should be fully explained and justified. For purposes of proposal development, informal day-to-day contacts between key project personnel and outside experts are not considered to be collaborative arrangements and thus do not need to be detailed.

All anticipated subcontractual arrangements should be explained and justified in this section. A proposed statement of work, a budget, and a budget narrative for each arrangement involving the transfer of substantive programmatic work or the providing of financial assistance to a third party must be provided. Agreements between departments or other units of your own institution and minor arrangements with entities outside of your institution (*e.g.,* requests for outside laboratory analyses) are excluded from this requirement.

If you expect to enter into subcontractual arrangements, please note that the provisions contained in 7 CFR Part 3019, USDA Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, and the general provisions contained in 7 CFR 3015.205, which is part of the USDA Uniform Federal Assistance Regulations, flow down to subrecipients. In addition, required clauses from 7 CFR Part 3019 sections 3019.40–3019.48 (Procurement Standards) and Appendix A (Contract Provisions) should be included in final contractual documents, and it is necessary for the subawardee to make a certification relating to debarment/suspension. This latter requirement is explained further under subsection S. of this part.

N. Budget (Form CSREES–55)

Each proposal must contain a detailed budget (Form CSREES–55) for up to 12 months of support. Funds may be requested under any of the categories listed on the budget form, provided that the item or service for which support is sought is allowable under the enabling legislation and the applicable Federal cost principles and can be identified as necessary and reasonable for the successful conduct of the project.

The following guidelines should be used in developing your proposal budget:

1. Salaries and Wages. Salaries and wages are allowable charges and may be requested for personnel who will be working on the project in proportion to the time such personnel will devote to the project. If salary funds are requested, the number of Senior and Other Personnel and the number of CSREES Funded Work Months must be shown in the spaces provided. Grant funds may not be used to augment the total salary or rate of salary of project personnel or to reimburse them for time in addition to a regular full-time salary covering the same general period of employment. Salary funds requested must be consistent with the normal policies of the institution and with OMB Circular No. A–21, Cost Principles for Educational Institutions. Administrative and Clerical salaries are normally classified as indirect costs. (See Item 9. below.) However, if requested under A.2.e., they must be fully justified.

Note: In accordance with section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended, 7 U.S.C. 3319, tuition remission is not an allowable cost under section 2(c)(1)(B) projects, and no funds will be approved for this purpose.

2. Fringe Benefits. Funds may be requested for fringe benefit costs if the usual accounting practices of your institution provide that institutional contributions to employee benefits (social security, retirement, etc.) be treated as direct costs. Fringe benefit costs may be included only for those personnel whose salaries are charged as a direct cost to the project. See OMB Circular No. A–21, Cost Principles for Educational Institutions, for further guidance in this area.

3. Nonexpendable Equipment. Nonexpendable equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, consistent with recipient policy, lower limits may be established. As such, items of necessary instrumentation or other nonexpendable equipment should be listed individually by description and estimated cost. This applies to revised budgets as well, as the equipment item(s) and amount(s) may change.

Note: For projects awarded under the authority of section 2(c)(1)(B), no funds will be awarded for the renovation or refurbishment of research spaces; the purchase or installation of fixed equipment in such spaces; or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

4. Materials and Supplies. The types of expendable materials and supplies which are required to carry out the project should be indicated in general terms with estimated costs.

5. Travel. The type and extent of travel and its relationship to project objectives should be specified. Funds may be requested for field work or for travel to professional meetings. In the budget narrative, for both domestic and foreign travel, provide the purpose, the destination, method of travel, number of persons traveling, number of days, and estimated cost for each trip. If details of each trip are not known at the time of proposal submission, provide the basis for determining the amount requested.

Travel and subsistence should be in accordance with organizational policy. Irrespective of the organizational policy, allowances for airfare will not normally exceed round trip jet economy air accommodations. Please note that 7 CFR 3015.205 is applicable to air travel.

6. Publication Costs/Page Charges. Anticipated costs of preparing and publishing results of the research being proposed (including page charges,

necessary illustrations, and the cost of a reasonable number of coverless reprints) may be estimated and charged against the grant.

7. Computer (ADPE) Costs. Reimbursement for the costs of using specialized facilities (such as a university- or department-controlled computer mainframe or data processing center) may be requested if such services are required for completion of the work.

8. All Other Direct Costs. Anticipated direct project charges not included in other budget categories must be itemized with estimated costs and justified on a separate sheet of paper attached to Form CSREES–55. This applies to revised budgets as well, as the item(s) and dollar amount(s) may change. Examples may include space rental at remote locations, subcontractual costs, charges for consulting services, telephone, facsimile, e-mail, shipping costs, and fees for necessary laboratory analyses. You are encouraged to consult the ''Instructions for Completing Form CSREES–55, Budget,'' of the Application Kit for detailed guidance relating to this budget category.

9. Indirect Costs. Pursuant to Section 1473 of the National Agriculture Research, Extension, and Teaching Policy Act of 1977, as amended, 7 U.S.C. 3319, indirect costs are not allowable costs under section 2(c)(1)(B) projects, and no funds will be approved for this purpose. Further, costs that are a part of an institution's indirect cost pool (*e.g.,* administrative or clerical salaries) may not be reclassified as direct costs for the purpose of making them allowable.

10. Cost-sharing. Cost-sharing is not required nor will it be a factor in the awarding of any grant.

O. Budget Narrative

All budget categories for which support is requested, must be individually listed (with costs) and justified on a separate sheet of paper and placed immediately behind the Budget Form.

P. Current and Pending Support (Form CSREES–663)

All proposals must contain Form CSREES–663 listing this proposal and any other current or pending support to which key project personnel have committed or are expected to commit portions of their time, whether or not salary support for the person(s) involved is included in the budget for each project. This proposal should be identified in the pending section of this form.

Q. Assurance Statement(s) (Form CSREES–662)

A number of situations encountered in the conduct of projects require special assurance, supporting documentation, etc., before funding can be approved for the project. In addition to any other situation that may exist with regard to a particular project, it is expected that some applications submitted in response to these guidelines will include the following:

1. Recombinant DNA or RNA Research. As stated in 7 CFR 3015.205(b)(3), all key personnel identified in the proposal and all signatory officials of the proposing organization are required to comply with the guidelines established by the National Institutes of Health entitled, ''Guidelines for Research Involving Recombinant DNA Molecules,'' as revised. If your project proposes to use recombinant DNA or RNA techniques, the application must so indicate by checking the ''yes'' box in Block 19 of Form CSREES–661 (Application for Funding) and by completing Section A of Form CSREES–662 (Assurance Statement(s)). For applicable proposals recommended for funding, Institutional Biosafety Committee approval is required before CSREES funds will be released.

2. Animal Care. Responsibility for the humane care and treatment of live vertebrate animals used in any grant project supported with funds provided by CSREES rests with the performing organization. Where a project involves the use of living vertebrate animals for experimental purposes, all key project personnel and all signatory officials of the proposing organization are required to comply with the applicable provisions of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 *et seq.*), and the regulations promulgated thereunder by the Secretary in 9 CFR Parts 1, 2, 3 and 4 pertaining to the care, handling, and treatment of these animals. If your project will involve these animals or activities, you must check the ''yes'' box in Block 20 of Form CSREES–661 and complete Section B of Form CSREES–662. In the event a project involving the use of live vertebrate animals results in a grant award, funds will be released only after the Institutional Animal Care and Use Committee has approved the project.

3. Protection of Human Subjects. Responsibility for safeguarding the rights and welfare of human subjects used in any grant project supported with funds provided by CSREES rests with the performing organization. Guidance on this issue is contained in the National Research Act, Pub. L. No. 93–348, as amended, and implementing regulations established by the Department under 7 CFR Part 1c. If you propose to use human subjects for experimental purposes in your project, you should check the ''yes'' box in Block 21 of Form CSREES–661 and complete Section C of Form CSREES–662. In the event a project involving human subjects results in a grant award, funds will be released only after the appropriate Institutional Review Board has approved the project.

R. Peer Review Certification

By signing the Application for Funding form, the AOR of the applicant institution is providing the required certification that the full proposal has received a credible and independent peer review arranged by the institution (see Part II. C.).

S. Other Certifications

Note that by signing the Application for Funding form the applicant is providing the required certifications set forth in 7 CFR Part 3017, regarding Debarment and Suspension and Drug-Free Workplace, and 7 CFR Part 3018, regarding Lobbying. The certification forms are included in this application package for informational purposes only. These forms should not be submitted with your proposal since by signing the Form CSREES–661 your organization is providing the required certifications.

If the project will involve a subcontractor or consultant, the subcontractor/consultant should submit a Form AD–1048 to the grantee organization for retention in their records. This form should not be submitted to USDA.

T. Compliance With the National Environmental Policy Act

As outlined in 7 CFR Part 3407 (CSREES's regulations implementing the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*)), environmental data or documentation for the proposed project is to be provided to CSREES in order to assist CSREES in carrying out its responsibilities under NEPA. These responsibilities include determining whether the project requires an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) or whether it can be excluded from this requirement on the basis of several categorical exclusions listed in 7 CFR 3407.6. To assist CSREES in this determination, the applicant should review the categories defined for exclusion to ascertain whether the

proposed project may fall within one of the exclusions.

Form CSREES–1234, NEPA Exclusions Form (copy in Application Kit), indicating the applicant's opinion of whether or not the project falls within one or more categorical exclusions, along with supporting documentation, must be included in the proposal. The information submitted in association with NEPA compliance should be identified in the Table of Contents as ''NEPA Considerations'' and Form CSREES–1234 and supporting documentation should be placed after the Form CSREES–661, Application for Funding, in the proposal.

Even though the applicant considers that a proposed project may fall within a categorical exclusion, CSREES may determine that an EA or an EIS is necessary for an activity if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present that may cause such activity to have a significant environmental effect.

U. Additions to Project Description

Each project description is expected to be complete in itself. However, in those instances in which the inclusion of additional information is necessary, the number of copies submitted should match the number of copies of the application requested in Part V.A. below. Each set of such materials must be identified with the title of the project and the name(s) of the principal investigator(s)/project director(s) as they appear on the ''Application for Funding.'' Examples of additional materials include photographs that do not reproduce well, reprints, and other pertinent materials which are deemed to be unsuitable for inclusion in the body of the proposal.

Part IV—How To Obtain Application Materials

Copies of this request for proposals and the Application Kit may be obtained by writing to the address or calling the telephone number which follows: Proposal Services Unit, Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Ave., S.W.; Washington D.C. 20250–2245; Telephone: (202) 401–5048. When contacting the Proposal Services Unit, please indicate that you are requesting forms for the Special Research Grants Program, Potato Research.

These materials may also be requested via Internet by sending a message which states that you want a copy of the application materials for the FY 2001 Special Research Grants Program, Potato Research with your name, mailing address (not e-mail) and phone number to psb@reeusda.gov. The materials will then be mailed to you (not e-mailed) as quickly as possible.

Part V—Submission of a Proposal

A. What To Submit

An original and 18 copies of each grant proposal must be submitted. Proposals should contain all requested information when submitted. Each proposal should be typed on 8½″ × 11″ white paper, single-spaced, and on one side of the page only. Please note that the text of the proposal should be prepared using no type smaller than 12 point font size and one-inch margins. It would be helpful if the name of the submitting institution were typed at the top of each page for easy identification in the event the proposal becomes disassembled while being reviewed. Staple each copy of the proposal in the upper left-hand corner. Please do not bind copies of the proposal.

B. Where and When To Submit

Proposals must be received on or before January 22, 2001, and submitted to the following mailing address: Special Research Grants Program, Potato Research; c/o Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Ave., S.W.; Washington, D.C. 20250–2245; Telephone: (202) 401–5048.

Note: Hand-delivered proposals or those delivered by overnight express service should be brought to the following address: Special Research Grants Program, Potato Research; c/o Proposal Services Unit, Office of Extramural Programs; CSREES/USDA; First Floor, Waterfront Centre; 800 9th Street, S.W.; Washington, D.C. 20024. The telephone number is (202) 401–5048.

C. Acknowledgment of Proposals

The receipt of all proposals will be acknowledged via e-mail. Therefore, it is important to include your e-mail address on Form CSREES–712 when applicable. This acknowledgment will contain a proposal identification number. Once your proposal has been assigned a proposal number, please cite that number in future correspondence.

Part VI—CSREES Selection Process and Evaluation Criteria

A. Selection Process

Applicants should submit fully developed proposals that meet all the requirements set forth in this request for proposals.

Each proposal will be evaluated in a two-part process. First, each proposal will be screened to ensure that it meets the requirements as set forth in this request for proposals. Second, proposals that meet these requirements will be technically evaluated by a scientific peer review panel.

The individual panel members will be selected from among those persons recognized as specialists who are uniquely qualified by training and experience in their respective fields to render expert advice on the merit of the proposals being reviewed. The individual views of the panel members will be used to determine which proposals should be recommended to the Administrator (or his designee) for final funding decisions.

There is no commitment by CSREES to fund any particular proposal or to make a specific number of awards. Care will be taken to avoid actual and potential conflicts of interest among reviewers. Evaluations will be confidential to CSREES staff members, peer reviewers, and the proposed principal investigator(s), to the extent permitted by law.

B. Evaluation Criteria

1. Overall scientific and technical quality of the proposal—10 points.

2. Scientific and technical quality of the approach—10 points.

3. Relevance and importance of proposed research to solution of specific areas of inquiry, and application of expected results for States beyond the State in which the grantee resides and will perform the work—30 points.

4. Feasibility of attaining objectives; adequacy of professional training and experience, facilities and equipment; the cooperation and involvement of multiple institutions or states—50 points.

Part VII—Supplementary Information

A. Access to CSREES Scientific Peer Review Information

After final decisions have been announced, CSREES will, upon request, inform the principal investigator of the reasons for its decision on a proposal.

B. Grant Awards

1. General: Within the limit of funds available for such purpose, the awarding official of CSREES shall make grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program area and procedures set forth in this request for proposals. The date specified

by the Administrator as the effective date of the grant shall be no later than September 30 of the fiscal year for which a grant is awarded. It should be noted that the project need not be initiated on the grant effective date, but as soon thereafter as practicable so that project goals may be attained within the funded project period. All funds granted by CSREES under this request for proposals shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (Parts 3015 and 3019 of 7 CFR).

2. Organizational Management Information: Specific management information relating to an applicant shall be submitted on a one-time basis as part of the responsibility determination prior to the award of a grant if such information has not been provided previously under this or another program for which the sponsoring agency, CSREES, is responsible. Copies of forms recommended for use in fulfilling the requirements contained in this section will be provided by CSREES as part of the pre-award process.

3. Grant Award Document: The grant award document shall include at a minimum the following:

a. Legal name and address of performing organization or institution to whom the Administrator has awarded a grant under this program;

b. Title of Project;

c. Name(s) and address(es) of principal investigator(s) chosen to direct and control approved activities;

d. Grant identification number assigned by the Department;

e. Project period, specifying the amount of time the Department intends to support the project without requiring recompetition for funds;

f. Total amount of Departmental financial assistance approved by the Administrator during the project period;

g. Legal authority(ies) under which the grant is awarded;

h. Approved budget plan for categorizing project funds to accomplish the stated purpose of the grant award; and

i. Other information or provisions deemed necessary by CSREES to carry out its respective granting activities or to accomplish the purpose of a particular grant.

4. Notice of Grant Award: The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee that is not included in the grant award document.

5. CSREES will award standard grants to carry out this program. A standard grant is a funding mechanism whereby CSREES agrees to support a specified level of effort for a predetermined time period without any guarantee of additional support at a future date.

C. Use of Funds; Changes

Unless otherwise stipulated in the terms and conditions of the grant award, the following provisions apply:

1. Delegation of Fiscal Responsibility: The grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

2. Changes in Project Plans:

a. The permissible changes by the grantee, principal investigator(s), or other key project personnel in the approved research project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and/or the principal investigator(s) are uncertain as to whether a change complies with this provision, the question must be referred to the ADO for a final determination.

b. Changes in approved goals, or objectives, shall be requested by the grantee and approved in writing by the ADO prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

c. Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the awarding official of CSREES prior to effecting such changes.

D. Other Federal Statutes and Regulations That Apply

Several other Federal statutes and regulations apply to grant proposals considered for review and to project grants awarded under this program. These include but are not limited to:

7 CFR Part 1, Subpart A—USDA implementation of the Freedom of Information Act.

7 CFR Part 3—USDA implementation of OMB Circular No. A–129 regarding debt collection.

7 CFR Part 15, Subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

7 CFR Part 3015—Uniform Federal Assistance Regulations, implementing OMB directives (*i.e.,* Circular Nos. A–21 and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. No. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR Part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR Part 3018—USDA implementation of Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

7 CFR Part 3019—USDA implementation of OMB Circular A–110, Uniform Administrative Requirements for Grants and Other Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR Part 3052—USDA implementation of OMB Circular No. A–133, Audits of States, Local Governments, and Nonprofit Organizations.

7 CFR Part 3407—CSREES procedures to implement the National Environmental Policy Act of 1969, as amended.

29 U.S.C. 794, section 504 of the Rehabilitation Act of 1973, and 7 CFR Part 15d (USDA implementation of statute)—prohibiting discrimination based upon disability in Federally assisted programs.

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR Part 401).

E. Confidential Aspects of Proposals and Awards

When a proposal results in a grant, it becomes a part of the record of CSREES's transactions, available to the public upon specific request. Information that the Secretary determines to be of a privileged nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as privileged should be clearly marked as such and sent in a separate statement, two copies of which should accompany the proposal.

The original copy of a proposal that does not result in a grant will be retained by CSREES for a period of one

year. Other copies will be destroyed. Such a proposal will be released only with the consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to the final action thereon.

F. Regulatory Information

For the reasons set forth in the final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of the Executive Order 12372 which requires intergovernmental consultation with State and local officials. Under the provisions of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. chapter 35), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0022.

G. Stakeholder Input

CSREES is soliciting comments regarding this request for proposals from any interested party. In your comments, please include the name of the program and the fiscal year of the request for proposals to which you are responding. These comments will be considered in the development of the next request for proposals for the program. Such comments will be used in meeting the requirements of section 103(c)(2) of AREERA, 7 U.S.C. 7613(c). Comments should be submitted as provided in the **ADDRESSES** and **DATES** portions of this Notice.

Done at Washington, D.C., this 22nd day of September, 2000.

Charles W. Laughlin,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 00–25365 Filed 10–3–00; 8:45 am]

BILLING CODE 3410–22–P

Federal Register

Wednesday,
October 4, 2000

Part III

Nuclear Regulatory Commission

10 CFR Parts 1, 2 and 13

Adjustment of Civil Penalties for Inflation; Miscellaneous Administrative Changes and Revision of the NRC Enforcement Policy; Final Rule and Notice

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1, 2 and 13

RIN 3150–AG59

Adjustment of Civil Penalties for Inflation; Miscellaneous Administrative Changes

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to adjust the maximum Civil Monetary Penalties (CMPs) it can assess under statutes within the jurisdiction of the NRC. These changes are mandated by Congress in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

The NRC's Rules of Practice are amended by adding a provision that adjusts the maximum CMP for a violation of the Atomic Energy Act (AEA) or any regulations or order issued thereunder from $110,000 to $120,000 per violation per day. The provisions concerning program fraud civil penalties are amended by adjusting the maximum civil penalties under the Program Fraud Civil Remedies Act from $5,500 to $6,000 for each false claim or statement. This final rule also amends the designation of the term ''Reviewing official'' for the purposes of the Program Fraud Civil Remedies Act to reflect a reorganization in the Office of the General Counsel (OGC) as well as making a minor modification to NRC regulations to reflect OGC's role in providing legal advice to NRC staff upon request on agency procurement matters.

DATES: The rule shall be effective on November 3, 2000.

FOR FURTHER INFORMATION CONTACT: Norman St. Amour, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone (301) 415–1589; e-mail *NXS1@nrc.gov.*

I. Background

A. Civil Penalty Adjustment

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, requires that the head of each agency adjust by regulation the CMPs within the jurisdiction of the agency for inflation at least once every four years. The NRC's last adjustment to the CMPs within its jurisdiction occurred on November 12, 1996. Thus, this inflation adjustment must be implemented by November 12, 2000.

The inflation adjustment is to be determined by increasing the maximum CMPs or the range of the minimum and maximum CMPs, as applicable, by the percentage that the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the last calendar year in which the amount of such penalty was last set. For the purposes of this adjustment, applying this formula results in a six percent increase to the CMPs. In the case of penalties greater than $1,000, but less than or equal to $10,000, inflation adjustment increases are to be rounded to the nearest multiple of $1,000. Increases are to be rounded to the nearest multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000.

B. Miscellaneous Administrative Changes

Under the Program Fraud Civil Remedies Act, the NRC is required to designate a ''reviewing official.'' The reviewing official has several duties under the Act, including making the determination as to whether there is adequate evidence against an individual to warrant commencement of an administrative proceeding.

Under the Commission's original rules implementing the Act, the Deputy General Counsel for Licensing and Regulation, or his or her designee, is identified as the reviewing official for the purposes of the Program Fraud Civil Remedies Act. 10 CFR 13.2 (2000). Because the position of Deputy General Counsel for Licensing and Regulation does not exist as such in the Office of the General Counsel, the Commission is designating the General Counsel as the ''reviewing official.'' The General Counsel may delegate this authority.

This final rule would also make a minor modification to the language of 10 CFR 1.23(e). This modification reflects the Office of General Counsel's long-standing practice of providing legal advice and opinions to NRC staff on procurement matters in response to specific requests from contracting offices and other interested agency offices, rather than preparing or concurring in all NRC contracts and interagency agreements to acquire supplies and services.

II. Discussion

Section 234 of the AEA has limited civil penalties for violations of the Atomic Energy Act to $100,000 per day per violation. In 1996, pursuant to the Debt Collection Improvement Act (DCIA), the NRC adjusted this figure to $110,000. The DCIA also amended the Federal Civil Penalties Inflation Adjustment Act of 1990 to require that the head of each agency adjust the CMPs within the jurisdiction of the agency for inflation at least once every four years. Therefore, the NRC is required to adjust the CMPs within its jurisdiction this year. After this mandatory adjustment for inflation, the new CMP penalty amount for a violation of the AEA will be $120,000 per day per violation (rounding the amount of the inflation adjustment increase to the nearest multiple of $10,000). Thus, by regulation, the NRC has amended 10 CFR 2.205 to reflect a new maximum CMP under the AEA in the amount of $120,000 per day per violation. This new maximum CMP applies only to violations that occur after the effective date of this regulation.

Monetary penalties under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801, 3802, and the NRC's implementing regulations, 10 CFR 13.3 (a)(1) and (b)(1), are currently limited to $5,500. As adjusted for inflation, the penalty amount will be $6,000. Thus, NRC has amended 13.3 (a)(1) and (b)(1) by increasing the maximum CMP for each false statement or claim under the Program Fraud Civil Remedies Act from $5,500 to $6,000. Again, this new maximum CMP applies only to violations which occur after the effective date of this regulation.

The Commission has no discretion to set alternative levels of adjusted civil penalties since the amount of inflation adjustment must be calculated in accordance with a formula established by statute. Conforming changes to the NRC Enforcement Policy (NUREG–1600) published in the **Federal Register** on May 1, 2000 will be made and published in a notice accompanying this rule.

The Program Fraud Civil Remedies Act ''reviewing official'' in 10 CFR 13.2 currently means the Deputy General Counsel for Licensing and Regulation of the NRC or his or her designee. This position does not exist in the current OGC organization. Accordingly, the Commission is amending the designation of ''reviewing official'' to mean the General Counsel of the NRC or his or her designee.

This final rule would also make a minor modification to the language of 10 CFR 1.23(e). The existing language implies that OGC provides legal advice and opinions on all agency procurement matters. This modification reflects OGC's long-standing practice of providing legal advice and opinions to NRC staff on procurement matters only in response to specific requests from contracting offices and other interested

offices, rather than preparing or concurring in all NRC contracts and interagency agreements to acquire supplies and services.

III. Procedural Background

This final rule has been issued without prior public notice or opportunity for public comment. The Administrative Procedure Act (5 U.S.C. 553(b)(B)) does not require that an agency use the public notice and comment process ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' In this instance, the NRC finds, for good cause, that solicitation of public comment on this final rule is unnecessary and impractical. Congress has required that the agency adjust the CMPs within the jurisdiction of the agency for inflation at least once every four years, and provided no discretion to the agency regarding the substance of the amendments. All that is required of the NRC for determination of the inflation adjustment are ministerial computations. The NRC also finds that amending the designation of reviewing official under the Program Fraud Civil Remedies Act and the minor modification to reflect OGC's actual long-standing practice of providing legal advice to NRC staff on procurement matters upon request are routine matters of agency organization, procedure, or practice exempt from the requirement for public notice and comment.

IV. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(1) and 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation. This action involves no policy determinations. It merely adjusts monetary civil penalties for inflation as required by statute and amends the definition of ''reviewing official'' for Program Fraud Civil Remedies Act matters to reflect a reorganization in the Office of the General Counsel and incorporates a minor modification to the language of 10 CFR 1.23(e) to reflect actual long-standing OGC practice in providing legal advice to NRC staff, upon request, on agency procurement matters.

V. Paperwork Reduction Act Statement

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VI. Regulatory Analysis

This final rule adjusts for inflation the maximum civil penalties under the Atomic Energy Act of 1954, as amended, and under the Program Fraud Civil Remedies Act of 1986. The adjustments and the formula for determining the amount of the adjustment are mandated by Congress in the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. No. 101–410, 104 Stat. 890), as amended by the Debt Collection Improvement Act of 1996, as amended (Pub. L. No. 104–134, 110 Stat. 1321–358, 373, codified at 28 U.S.C. 2461 note). Congress passed that legislation on the basis of its findings that the power to impose monetary civil penalties is important to deterring violations of Federal law and furthering the policy goals of Federal laws and regulations. Congress has also found that inflation has diminished the impact of these penalties and their effect. The principal purposes of this legislation are to provide for adjustment of civil monetary penalties for inflation, maintain the deterrent effect of civil monetary penalties, and promote compliance with the law. Thus, these are anticipated impacts of implementation of the mandatory provisions of the legislation. Direct monetary impacts fall only upon licensees or other persons subjected to NRC enforcement or those licensees or persons subjected to liability pursuant to the provisions of the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801–3812) and the NRC's implementing regulations (10 CFR part 13). This final rule also makes an adjustment to the designation of ''reviewing official'' for Program Fraud Civil Remedies Act matters to reflect an Office of the General Counsel reorganization and incorporates a minor modification to the language of 10 CFR 1.23(e) to reflect OGC's long-standing practice of providing legal advice and opinions to NRC staff on procurement matters in response to specific requests from contracting offices and other interested agency offices, rather than preparing or concurring in all NRC contracts and interagency agreements to acquire supplies and services.

VII. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rulemaking adjusts, for inflation, the amount charged for civil penalties, as required by the Debt Collection Improvement Act. The law mandates that adjustments for inflation be made at least every four years and sets forth a formula for determining the amount of the adjustment. The Nuclear Regulatory Commission has no discretion in implementing these requirements. To the extent that small entities are impacted by this rule, these are anticipated impacts resulting from the mandatory provisions of the legislation authorized by Congress.

VIII. Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

IX. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires that Federal agencies use technical standards developed by or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. There are no consensus standards that apply to the inflation adjustment requirements in this final rule. Thus, the provisions of the Act do not apply to this rulemaking.

X. Backfit Analysis

The NRC has determined that these amendments do not involve any provisions which would impose backfits as defined in 10 CFR Chapter 1; therefore, a backfit analysis need not be prepared.

List of Subjects

10 CFR Part 1

Organization and functions (Government Agencies).

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 13

Claims, Fraud, Organization and function (government agencies), Penalties.

For the reasons set out above and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 1, 2 and 13.

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

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

Authority: Secs. 23, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2033, 2201); sec. 29, Pub. L. 85–256, 71 Stat. 579, Pub. L. 95–209, 91 stat. 1483 (42 U.S.C. 2039); sec. 191, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); secs. 201, 203, 204, 205, 209, 88 Stat. 1242, 1244, 1245, 1246, 1248, as amended (42 U.S.C. 5841, 5843, 5844, 5845, 5849); 5 U.S.C. 552, 553; Reorganization Plan No. 1 of 1980, 45 FR 40561, June 16, 1980.

2. In § 1.23, paragraph (e) is revised to read as follows:

§ 1.23 Office of the General Counsel.

* * * * *

(e) As requested, provides the agency with legal advice and opinions on acquisition matters, including agency procurement contracts; placement of work at Department of Energy national laboratories; interagency agreements to acquire supplies and services; and grants and cooperative agreements. Prepares or concurs in all other interagency agreements, delegations of authority, regulations; orders; licenses; and other legal documents and prepares legal interpretations thereof;

* * * * *

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCES OF ORDERS

3. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161 b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.205(j) also issued under Pub. L. 101–410, 104 Stat. 890, as amended by section 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5. U.S.C. 553. Section 2.809 also issued under 5. U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135).

4. In § 2.205 paragraph (j) is revised to read as follows:

§ 2.205 Civil Penalties.

* * * * *

(j) *Amount.* A civil monetary penalty imposed under Section 234 of the Atomic Energy Act of 1954, as amended, or any other statute within the jurisdiction of the Commission that provides for the imposition of a civil penalty in an amount equal to the amount set forth in Section 234, may not exceed $120,000 for each violation. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

PART 13—PROGRAM FRAUD CIVIL REMEDIES

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

Authority: Public Law 99–509, sec 6101–6104, 100 Stat. 1874 (31 U.S.C. 3801–3812). Sections 13.13(a) and (b) also issued under Pub. L. 101–410, 104 Stat. 890, as amended by section 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note).

6. In § 13.2 the definition of ''Reviewing official'' is revised to read as follows:

§ 13.2 Definitions.

* * * * *

Reviewing official means the General Counsel of the Nuclear Regulatory Commission or his or her designee who is—

(a) Not subject to supervision by, or required to report to, the investigating official;

(b) Not employed in the organizational unit of the authority in which the investigating official is employed; and

(c) Serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

* * * * *

7. In § 13.3, paragraphs (a)(1) and (b)(1) are revised to read as follows:

§ 13.3 Basis for civil penalties and assessments.

(a) *Claims.* (1) Any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and (C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $6,000 for each such claim.

* * * * *

(b) *Statements.* (1) Any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $6,000 for each such statement.

* * * * *

Dated at Rockville, Maryland, this 27th day of September, 2000.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 00–25374 Filed 10–3–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NUREG—1600]

Revision of the NRC Enforcement Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: revision.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) is publishing a revision to its General Statement of Policy and Procedure for NRC Enforcement Actions (NUREG–1600) (Enforcement Policy or Policy) to address the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. The Act requires Federal agencies to adjust civil monetary penalties to reflect inflation.

DATES: This action is effective on November 3, 2000. Comments on this revision should be submitted on or before November 3, 2000 and will be considered by the NRC before the next Enforcement Policy revision. The Commission will apply the modified Policy to violations that occur after the effective date.

ADDRESSES: Submit written comments to: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T6D59, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to: Room T6D22, 11545 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike, Room O1–F21, Rockville, MD, and through the NRC Agencywide Documents Access and Management System (ADAMS). Comments may also be sent electronically by completing the online comment form available on the NRC's Office of Enforcement Internet webpage at www.nrc.gov/OE/rpr/oe_10.htm.

The NRC's Office of Enforcement maintains the current policy statement on its homepage on the Internet at www.nrc.gov/OE.

FOR FURTHER INFORMATION CONTACT: Bill Borchardt, Director, Office of Enforcement, (301) 415–2741, e-mail rwb1@nrc.gov or Rene Pedersen, Senior Enforcement Specialist, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, (301) 415–2742, e-mail rmp@nrc.gov.

SUPPLEMENTARY INFORMATION:

Section 234 of the Atomic Energy Act (AEA) limits the maximum civil penalty amount that the NRC may issue for violations of the AEA at $100,000 per violation, per day. The Federal Civil Monetary Penalties Inflation Adjustment Act of 1990 (as amended by the Debt Collection Improvement Act of 1996 (the Act)) requires that the head of each agency adjust by regulation the civil monetary penalties (CMPs) provided by law within the jurisdiction of the agency for inflation at least once every four years. On November 12, 1996, the NRC adjusted the aforementioned maximum civil penalty amount to $110,000. Thus, the NRC is required to adjust this civil penalty by November 12, 2000.

The inflation adjustment mandated by the Act results in a six percent increase to the maximum CMPs.[1] Increases are to be rounded to the nearest multiple of $10,000 in the case of penalties greater than $100,000, but less than or equal to $200,000.

After this mandatory adjustment for inflation and the rounding mandated by statute, the new maximum civil penalty amount will be $120,000 per violation, per day. Concurrent with this change, the NRC is publishing in the **Federal Register**, a change to 10 CFR 2.205 to reflect the new maximum CMP mandated by the Act. The new maximum civil penalty applies only to violations that occur after the date that the increase takes effect.

The changes mandated by the Act apply to the maximum CMP. This is also the amount that, under the Enforcement Policy approved by the Commission, is assigned as the base civil penalty for power reactors and gaseous diffusion plants for a Severity Level I violation (considered the most significant severity level). Also as a matter of policy, the Commission has approved use of lesser amounts for other types of licensees, primarily materials licensees, and for violations that are assessed at lower severity levels. This approach is set out in Tables 1A and 1B of the Enforcement Policy. While the 1996 Act does not mandate changes to these lesser civil penalty amounts, the NRC is modifying Table 1A of the Enforcement Policy by increasing each amount to maintain the same proportional relationships between the penalties. These changes apply to violations occurring after the effective date of this Policy Statement.

[1] Adjustment for inflation=Consumer Price Index (CPI) for June 1999—CPI for June 1996.

Paperwork Reduction Act

This final policy statement does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0136.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a ''major'' rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Accordingly, the NRC Enforcement Policy published on May 1, 2000 (65 FR 25368) is revised to read as follows:

General Statement of Policy and Procedure for NRC Enforcement Actions

* * * * *

VI. Disposition of Violations

* * * * *

C. Civil Penalty

* * * * *

1. Base Civil Penalty

* * * * *

TABLE 1A.—BASE CIVIL PENALTIES

a. Power reactors and gaseous diffusion plants	$120,000
b. Fuel fabricators authorized to possess Category I or II quantities of SNM	60,000
c. Fuel fabricators, industrial processors,[1] and independent spent fuel and monitored retrievable storage installations	30,000
d. Test reactors, mills and uranium conversion facilities, contractors, waste disposal licensees, industrial radiographers, and other large material users	12,000
e. Research reactors, academic, medical, or other small material users[2]	6,000

[1] Large firms engaged in manufacturing or distribution of byproduct, source, or special nuclear material.
[2] This applies to nonprofit institutions not otherwise categorized in this table, mobile nuclear services, nuclear pharmacies, and physician offices.

* * * * *

2. Civil Penalty Assessment

* * * * *

d. Exercise of Discretion

As provided in Section VII, ''Exercise of Discretion,'' discretion may be exercised by either escalating or mitigating the amount of the civil penalty determined after applying the civil penalty adjustment factors to ensure that the proposed civil penalty reflects all relevant circumstances of the particular case. However, in no instance will a civil penalty for any one violation exceed $120,000 per day.

* * * * *

VII. Exercise of Discretion

* * * * *

A. Escalation of Enforcement Sanctions

The NRC considers violations categorized at Severity Level I, II, or III to be of significant regulatory concern. The NRC also considers violations associated with findings that the Reactor Oversight Process's Significance Determination Process evaluates as having low to moderate, or greater safety significance (i.e., white, yellow, or red) to be of significant regulatory concern. If the application of the normal guidance in this policy does not result in an appropriate sanction, with the approval of the Deputy Executive Director and consultation with the EDO and Commission, as warranted, the NRC may apply its full enforcement authority where the action is warranted. NRC action may include: (1) escalating civil penalties; (2) issuing appropriate orders; and (3) assessing civil penalties for continuing violations on a per day basis, up to the statutory limit of $120,000 per violation, per day.

* * * * *

3. Daily Civil Penalties

In order to recognize the added significance for those cases where a very strong message is warranted for a significant violation that continues for more than one day, the NRC may exercise discretion and assess a separate violation and attendant civil penalty up to the statutory limit of $120,000 for each day the violation continues. The NRC may exercise this discretion if a licensee was aware of or clearly should have been aware of a violation, or if the licensee had an opportunity to identify and corerct the violation but failed to do so.

* * * * *

Dated at Rockville, Maryland, this 27th day of September, 2000.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 00–25375 Filed 10–3–00; 8:45 am]

BILLING CODE 7590–01–P

Federal Register

Wednesday,
October 4, 2000

Part IV

Department of Education

Bilingual Education: Career Ladder Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.195E]

Bilingual Education: Career Ladder Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001

Note to Applicants

This notice is a complete application package. Together with the statute authorizing the program and the applicable regulations governing this program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a grant under this program.

Purpose of Program

This program provides grants to (1) upgrade the qualifications and skills of noncertified educational personnel, especially educational paraprofessionals, to meet high professional standards, including certification and licensure as bilingual teachers and other educational personnel who serve limited English proficient students, and (2) help recruit and train secondary students as bilingual education teachers and other educational personnel to serve limited English proficient students.

Eligible Applicants: One or more institutions of higher education (IHEs) that have entered into consortia arrangements with local educational agencies (LEAs) or State educational agencies (SEAs) to achieve the purposes of this section. Consortia may include community-based organizations or professional education organizations.

Deadline for Transmittal of Applications: 11/30/2000.

Deadline for Intergovernmental Review: 1/29/2001.

Available Funds: $5 million.

Estimated Range of Awards: $150,000–$250,000.

Estimated Average Size of Awards: $200,000.

Estimated Number of Awards: 25.

Note: The Administration has requested $5 million for new awards to this program in 2001. The actual level of funding, if any, depends upon final congressional action.

Project Period: 60 Months.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 30 pages, using the following standards:

- A page is $8.5 \times 11''$, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including budget justification and the cost itemization; Part IV, the assurances and certifications; or the table of contents, the one-page abstract, the resumes, the bibliography, or the letters of support. However you must include all of the application narrative in Part III.

If, to meet the page limit, you use more than one side of the page, you use a larger page, or you use a print size, spacing, or margins smaller than the standards in this notice, we will reject your application.

Applicable Regulations

The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98 and 99.

Description of Program

The statutory authorization for this program, and the application requirements that apply to this competition, are set out in sections 7144 and 7146–7150 of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994 (Pub. L. 103–382, enacted October 20, 1994) (the Act) (20 U.S.C. 7474 and 7476–7480).

Funds under this program may be used: to develop bilingual education career ladder program curricula appropriate to the needs of consortia participants; provide assistance for stipends and costs related to tuition fees and books for coursework required to complete degree and certification requirements for bilingual education teachers; and for programs to introduce secondary school students to careers in bilingual education teaching that are coordinated with other activities assisted under this program. Activities conducted under this program must assist educational personnel in meeting State and local certification requirements for bilingual education and, wherever possible, must lead to the awarding of college or university credit.

Priorities

Competitive Priority 1

Under 34 CFR 75.105(c)(2)(i) and 34 CFR 299.3(b), we award up to 3 points for an application that meets the competitive priority. These points are in addition to any points the application earns under the selection criteria for the program.

Projects that will contribute to a systemic educational reform in an Empowerment Zone, including a Supplemental Empowerment Zone, or an Enterprise Community designated by the United States Department of Housing and Urban Development or the United States Department of Agriculture, and are made an integral part of the Zone's or Community's comprehensive community revitalization strategies.

A list of areas that have been designated as Empowerment Zones and Enterprise Communities is provided at the end of this notice.

Competitive Priority 2

We give preference to an application that meets the priority over an application of comparable merit that does not meet the priority:

Applications that propose to provide for: participant completion of baccalaureate and master's degree teacher education programs, and certification requirements and may include effective employment placement activities; the development of teacher proficiency in English as a second language, including demonstrating proficiency in the instructional use of English and, as appropriate, a second language in classroom contexts; coordination with programs for the recruitment and retention of bilingual students in secondary and postsecondary programs training to become bilingual educators; and the applicant's contribution of additional student financial aid to participating students.

Invitational Priority

The Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority receives no competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Applicants that propose to collaborate with 2-year institutions of higher education to develop or improve teacher preparation programs for bilingual paraprofessionals.

Selection Criteria

The Secretary uses the following selection criteria in 34 CFR 75.210 to evaluate applications for new grants under this competition.

The maximum score for all of these criteria is 100 points.

The maximum score for each criterion is indicated in parentheses.

(a) *Need for project.* (10 points) (1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude or severity of the problem to be addressed by the proposed project.

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and the magnitude of those gaps or weaknesses.

(b) *Quality of the project design.* (50 points) (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(iv) The extent to which the proposed activities constitute a coherent, sustained program of training in the field.

(v) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(vi) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources.

(vii) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(viii) The extent to which fellowship recipients or other project participants are to be selected on the basis of academic excellence.

(c) *Quality of project services.* (10 points) (1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been under-represented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factor:

(i) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(d) *Quality of project personnel.* (5 points) (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factor: the qualifications, including relevant training and experience, of key project personnel.

(e) *Quality of the management plan.* (5 points) (1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factor: the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(f) *Quality of the project evaluation.* (20 points) (1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

If you are an applicant you must contact the appropriate State Single Point of Contact (SPOC) to find out about, and to comply with, the State's process under Executive order 12372.

If you propose to perform activities in more than one State, you should immediately contact the SPOC for each of those States and follow the procedure established in each State under the Executive order.

If you want to know the name and address of any SPOC, see the list in the appendix to this application notice: or you may view the latest official SPOC list on the Web site of the Office of Management and Budget at the following address: http://www.whitehouse.gov/omb/grants

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a SPOC and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.195E, U.S. Department of Education, Room 7E200 400 Maryland Avenue, SW., Washington, D.C. 20202–0125.

We will determine proof of mailing under 34 CFR 75.102 (Deadline date for applications). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, D.C. time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its

completed application. Do not send applications to the above address.

Instructions for Transmittal of Applications

If you want to apply for a grant and be considered for funding you must meet the following deadline requirements:

(a) *If you send your application by mail—*

You must mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.195E), Washington, D.C. 20202–4725.

You must show one of the following as proof of mailing.

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If you mail an application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

(b) Hand-deliver the original and two copies of the application by 4:30 p.m. (Washington, D.C. time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.195E), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center accepts application deliveries daily between 8:00 a.m. and 4:30 p.m. (Washington, DC time), except Saturdays, Sundays and Federal holidays. The Center accepts application deliveries through the D Street entrance only. A person delivering an application must show identification to enter the building.

If you submit your application by courier—

You must deliver the original and two copies of your application to the courier service on or before the deadline date. You must show as proof of delivery to the courier service a dated shipping label, invoice, or receipt from the courier service.

The courier service must deliver your application to: U.S. Department of Education, Application Control Center, Attn: (84.195E), Room 3633, Regional Office Building 3, 7th and D Streets, SW., Washington, DC.

The Application Control Center accepts application deliveries daily between 8:00 a.m. and 4:30 p.m. (Washington, DC time), except Saturdays, Sundays and Federal holidays. The Center accepts application deliveries through the D Street entrance only. A courier delivering an application must show identification to enter the building.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) If you send your application by mail or deliver it by hand or by a courier service, the Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9495.

(3) You *must* indicate on the envelope and—if not provided by the Department—in Item 3 of the Application for Federal Assistance (Standard Form 424) the CFDA number and suffix letter, if any, of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this notice contains the following forms and instructions plus a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with Section 427 of the General Education Provisions Act, questions and answers on this program (located at the end of the notice) and various assurances, certifications, and required documentation:

a. Estimated Public Reporting Burden.

b. Application Instructions.

c. Nonregulatory Guidance: Questions and Answers.

d. Checklist for Applicants.

e. List of Empowerment Zones and Enterprise Communities.

f. Application for Federal Education Assistance (ED 424) and instructions.

g. Group Application Form.

h. Budget Information.

i. Participant Data.

j. Project Documentation.

k. Program Assurances.

l. Assurances—Non-Construction Programs (Standard Form 424B) and instructions.

m. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

n. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014) and instructions. (Note: This form is intended for the use of grantees and should not be transmitted to the Department.)

o. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions. The document has been marked to reflect statutory changes.

p. Notice to All Applicants (GEPA Requirement) and Instructions (OMB No. 1801–0004).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. All applicants must submit *ONE* original signed application, including ink signatures on all forms and assurances, and *TWO* copies of the application. Please mark each application as ''original'' or ''copy''. No grant may be awarded unless a completed application has been received.

FOR FURTHER INFORMATION CONTACT: Mahal May or Elizabeth Judd, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: Mahal May: (202)205–8727; Elizabeth Judd: (202)205–9157 E-mail addresses: Mahal_May@ed.gov Elizabeth_Judd@ed.gov.

If you use a telecommunications device for the deaf (TDD) you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternative format the standard forms included in the notice.

Electronic Access to this Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (PFD) on the Internet at either of the following sites:
http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use PDF you must have Adobe Acrobat Reader, which is available free at either of the preceding sites. If you have questions about using PDF, call the U.S. Government Printing Office toll free at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal**

Register. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available at GPO access at: http://www.access.gpo.gov.nara.index.html

Program Authority: 20 U.S.C. 7474.

Art Love,

Acting Director, Office of Bilingual Education and Minority Languages Affairs.

Appendix

Estimated Burden Statement

According to the Paperwork Reduction Act of 1995, you are not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB No. 1885–0542, Exp. Date: 12/31/01. We estimate the time required to complete this information collection is estimated to average 120 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. *If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to:* U.S. Department of Education, Washington, D.C. 20202–4651. *If you have any comments or concerns regarding the status of your individual submission of this form, write directly to:* Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202–6510.

Application Instructions

Abstract

The narrative section should be preceded by a one-page abstract that includes a short description of the population to be served by the project, project objectives, planned activities, and invitational priorities the project proposes to address.

Selection Criteria

The narrative should address fully all aspects of the selection criteria in the order listed and should give detailed information regarding each criterion. Do not simply paraphrase the criteria. Do not include extensive resumes. Provide position descriptions for key personnel. Do not include bibliographies, letters of support, or appendices in your application. This package includes questions and answers to assist you in preparing the narrative portion of your application.

Empowerment Zone/Enterprise Community Priority

Applicants that wish to be considered under the competitive priority for Empowerment Zones and Enterprise Communities, as specified in a previous section of this notice, should identify in Section D of the Project Documentation Form the Applicable Empowerment Zone or Enterprise Community. The application narrative should describe the extent to which the proposed project will contribute to systemic educational reform in the particular Empowerment Zone or Enterprise Community and be an integral part of the Zone's or Community's comprehensive revitalization strategies. A list of areas that have been designated as Empowerment Zones and Enterprise Communities is provided at the end of this notice.

Table of Contents

The application should include a table of contents listing the various parts of the narrative in the order of the selection criteria. Be sure that the table includes the page numbers where the parts of the narrative are found.

Budget

Budget line items must support the goals and objectives of the proposed project and be directly applicable to the program design and all other project components. A separate budget summary and cost itemization must be provided on the Budget Information Form (ED 524). Prepare an itemized budget for each year of requested funding. Indirect costs for institutions of higher education which are the fiscal agents for Career Ladder Programs are limited to the lower of either 8% of a modified total direct cost base or the institution for higher education's actual indirect cost agreement. A modified direct cost base is defined as total direct costs less stipends, tuition and related fees and capital expenditures of $5,000 or more. In describing student support costs distinguish costs for tuition and fees from costs for stipends.

Submission Of Application To State Educational Agency

Section 7146(a)(4) of the Act (Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994, Pub. L. 103–382) requires all applicants except schools funded by the Bureau of Indian Affairs to submit a copy of their application to their State educational agency (SEA) for review and comment (20 U.S.C. 7476(a)(4)). Section 75.156 of the Education Department General Administrative Regulations (EDGAR) requires these applicants to submit their application to the SEA on or before the deadline date for submitting their application to the Department of Education. This section of EDGAR also requires applicants to attach to their application a copy of their letter that requests the SEA to comment on the application. A copy of this letter should be attached to the Project Documentation Form contained in this application package.

Applicants that do not submit a copy of their application to their SEA will not be considered for funding. Applicants are reminded that the requirement for submission to the SEA and the requirements for Executive Order 12372 are two separate requirements.

Final Application Preparation

Use the checklist following the Questions and Answers to verify that all items are addressed. Prepare one original with an original signature, and include two additional copies. Do not use elaborate bindings or covers. The application package must be mailed to the Application Control Center (ACC) and postmarked by the deadline date published in the notice.

Questions and Answers

Does the Career Ladder Program have specific evaluation requirements?

Yes, the evaluation requirements are described in section 7149 of title VII of ESEA, 20 U.S.C. 7479.

What requirements must grantees meet related to teacher certification?

The Title VII statute requires grantees to assist educational personnel in meeting State and local certification requirements. However, because certification requirements vary among States, applicants are given flexibility in designing activities that lead to meeting State and local certification requirements.

May program budgets include costs for items other than student tuition and fees?

Project budgets should reflect the proposed program activities. In addition to student support costs, budget items may include costs for personnel, supplies or equipment, and other reasonable and necessary costs to support developmental activities.

What information may be helpful in preparing the application narrative for a Career Ladder Program?

In responding to the selection criteria applicants may wish to consider the following questions as a guide for preparing application narrative.

- What are the specific responsibilities of districts, schools, institutions of higher education (IHEs) and other partnership organizations in planning, implementing and evaluating the proposed program? How is the program linked to the school district's overall professional development plan?
- What resources and support will each of the consortia members provide? How will resources be integrated to ensure maximum effectiveness of the program resources and to promote capacity building and long-range collaboration?
- How will the program collaborate with other teacher preparation programs within the institution, including those funded under the Higher Education Act of 1965, as amended?
- How does the training curricula reflect high standards for pedagogy, content, and proficiency in English and a second language to ensure that participants are effectively prepared to provide instruction and support to LEP students?
- How will the program assist in systemically reforming policies and practices in the target schools and in the IHEs related to the preparation of new teachers, the induction of new bilingual teachers, clinical experiences for new bilingual teachers and other educational personnel, or professional development opportunities for all teachers?
- What special selection criteria will the applicant adopt to ensure that individuals selected to participate in the program hold promise for successfully completing program requirements?
- What special support will be provided to participants by experienced bilingual teachers, higher education faculty, and school administrators to guide them during their period of induction?

• How will the instructional responsibilities of participants be balanced with appropriate professional development, support and planning time?

• How will clinical experiences for preservice participants be structured to ensure that they are well-supervised, of sufficient duration and in a setting which provides opportunities for participants to experience a variety of effective bilingual education instructional methods and approaches?

• How is the training curriculum based on current research related to effective teaching and learning? What evidence of effectiveness supports the training model?

• What are the expected outcomes for participant learning, effectiveness in the instructional setting, reform and improvement in the school or the university? What measures will the proposed program use to collect data on the effectiveness of the program in meeting its objectives, such as: field practice assessments, National or State benchmark tests, surveys of graduates, mentor teachers, school administrators, rates of transfer from 2-year to 4-year institutions, graduate rates, placement rates? How are needs, objectives, activities and measures linked?

• How will the program evaluation incorporate strategies for assessing the progress and performance of participants; communicating meaningful, regular and timely feedback to participants; improving the quality of the training program; documenting and identifying exemplary program features and successful strategies; and reporting on specific data related to the number of participants completing the program and the number of graduates placed in the instructional setting?

In addition, applicants may wish to consider the Department of Education Professional Development Principles in planning a Career Ladder Program

The following are the professional development principles:

• Focuses on teachers as central to student learning, yet includes all other members of the school community;

• Focuses on individual, collegial and organizational improvement;

• Respects and nurtures the intellectual and leadership capacity of teachers, principals, and others in the school community;

• Reflects best available research and practice in teaching, learning, and leadership; enables teachers to develop further expertise in subject content, teaching strategies, uses of technologies, and other essential elements in teaching to high standards;

• Promotes continuous inquiry and improvement embedded in the daily life of schools;

• Is planned collaboratively by those who will participate in and facilitate that development;

• Requires substantial time and other resources;

• Is driven by a coherent long-term plan;

• Is evaluated ultimately on the basis of its impact on teacher effectiveness and student learning; and uses this assessment to guide subsequent professional development efforts.

What Other Information May Be Helpful in Applying for a Career Ladder Program?

For additional technical assistance information on Title VII programs, visit the OBEMLA website at: *www.ed.gov/offices/OBEMLA*. Select funding opportunities, then professional development programs. Applicants are reminded that they must submit a copy of their application to the SEA for review and comment. In addition, applicants must submit a copy of their application to the State Single Point of Contact to satisfy the requirements of Executive order 12372. The SEA review requirement and the requirements for Executive order 12372 are two separate requirements.

Checklist for Applicants

The following forms and other items must be included in the application:

1. Application for Federal Assistance (SF 424)
2. Group Application Certification (To be signed by authorized Representative of LEA in consortia with the applicant)
3. Budget Information (ED Form No. 524)
4. Itemized Budget for each year (attached to ED Form No. 524)
5. Participant Data—approximate number of participants to be served each year.
6. Project Documentation

Section A—Copy of Transmittal Letter to SEA requesting SEA to comment on application

Section B—Documentation of Empowerment Zone or Enterprise Community—if applicable

7. Program Assurances
8. Non-Construction Programs (SF 424B)
9. Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013)
10. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014)
11. Disclosure of Lobbying Activities (SF–LLL)
12. Notice to all Applicants (See form provided below)
13. Table of Contents
14. One-page single-spaced abstract
15. Application narrative (Not to exceed 30 double-spaced pages, see instructions below)
16. One original and two copies of the application to the Department of Education Application Control Center
17. One copy to the SEA
18. One copy to the State Single Point of Contact

BILLING CODE 4000–01–P

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address
Legal Name: _____
Address: _____
_____
_____ _____ _____ _____ - _____
City State County ZIP Code + 4

Organizational Unit

2. Applicant's D-U-N-S Number: |__|__|__|__|__|__|__|__|__|

3. Applicant's T-I-N |__|__| - |__|__|__|__|__|__|__|

4. Catalog of Federal Domestic Assistance #: **84.195E →**

Title: Bilingual Education: Career Ladder Program

5. Project Director: _____
Address: _____
_____ _____ _____ _____
City State Zip code + 4
Tel. #: ( ) _____-_____ Fax #: ( )_____-_____
E-Mail Address: _____

6. Is the applicant delinquent on any Federal debt? ___Yes ___No
(If "Yes," attach an explanation.)

7. Type of Applicant *(Enter appropriate letter in the box.)* |_____|

A - State	H - Independent School District
B - County	I - Public College or University
C - Municipal	J - Private, Non-Profit College or University
D - Township	K - Indian Tribe
E - Interstate	L - Individual
F - Intermunicipal	M - Private, Profit-Making Organization
G - Special District	N - Other *(Specify):* _____

8. Novice Applicant ___Yes ____ No

Application Information

9. Type of Submission:

-PreApplication	*-Application*
____Construction	____Construction
____Non-Construction	____Non-Construction

10. Is application subject to review by Executive Order 12372 process?
____ Yes *(Date made available to the Executive Order 12372 process for review):* ____/____/_____

____ No *(If "No," check appropriate box below.)*
____ Program is not covered by E.O. 12372.
____ Program has not been selected by State for review.

11. Proposed Project Dates: ____/____/_____ ____/____/_____
Start Date: **End Date:**

12. Are any research activities involving human subjects planned at any time during the proposed project period? ____Yes _____No
a. If "Yes," Exemption(s) #: b. Assurance of Compliance #:
_____ ***OR*** _____
c. IRB approval date: ____ Full IRB **or**
_____ ____ Expedited Review

13. Descriptive Title of Applicant's Project:

Estimated Funding

14a. Federal	$ _____.00
b. Applicant	$ _____.00
c. State	$ _____.00
d. Local	$ _____.00
e. Other	$ _____.00
f. Program Income	$ _____.00
g. TOTAL	$ _____.00

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative
_____
b. Title: _____
c. Tel. #: ( ) _____-_____ Fax #: ( ) _____-_____
d. E-Mail Address: _____
e. Signature of Authorized Representative
_____ Date: ___/___/_____

ED 424 (rev 11/12/99)

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Tax Identification Number.** Enter the tax identification number as assigned by the Internal Revenue Service.

4. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

5. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

7. **Type of Applicant.** Enter the appropriate letter in the box provided.

8. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

9. **Type of Submission.** Self-explanatory.

10. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

11. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

12. **Human Subjects.** Check "Yes" **or** "No" If research activities involving human subjects are **not** planned **at any time** during the proposed project period, check **"No." The remaining parts of item 12 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are** planned **at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If **all** the research activities are designated to be exempt under the regulations, enter, in item 12a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 12a, are appropriate. **Provide this narrative information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 12.**

    If **some or all** of the planned research activities involving human subjects are covered (nonexempt), skip item 12a and continue with the remaining parts of item 12, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 12b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 12c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 12c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 12b and skip 12c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

13. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

14. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor.

Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 14.

15. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725

Protection of Human Subjects in Research (Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned.

If you marked item 12 on the application "Yes" and designated exemptions in 12a , **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 12 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an

individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of *exemptions* are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

GROUP APPLICATION CERTIFICATION

NOTE: This form must be completed by eligible parties applying as a group for a grant. This form must be accompanied by a group agreement that details the activities that each member of the group plans to perform under the grant.

(34 CFR 75.128(b)-(c)).

To the best of my knowledge and belief, all data in this application are true and correct. I agree to be bound to every statement and assurance made in this application.

Authorized Representative					
Typed Name	Title	Signature	Date Signed	Telephone Number (including Area Code)	Name of Institution/ Organization

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004

Expiration Date: 02/28/2003

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

PARTICIPANT DATA

Note: This form must be completed by applicants under the following programs:

- **Teachers and Personnel Grants**
- **Career Ladder Program**
- **Training for all Teachers**

Number of proposed participants in each of the following categories to be served each year of the grant.

Preservice Teachers (who are not paraprofessionals)	_____
Preservice Teachers (who are currently paraprofessionals)	_____
Inservice Teachers	_____
Other Educational Personnel (Specify type of personnel below)	_____
_____	_____
_____	_____

Degree level(s) to be attained (if applicable) _____

Certification Type(s) to be attained _____

Language(s) of Participants (other than English) _____

_____

_____

PROJECT DOCUMENTATION

Note: Submit the appropriate documents and information as specified below for the following programs.

- Teachers and Personnel Grants
- Career Ladder Program
- Training for All Teachers

Section A

A copy of the applicant's transmittal letter requesting the appropriate State educational agency to comment on the application.

Section B

If applicable, identify on the line below the Empowerment Zone, Supplemental Empowerment Zone, or Enterprise Community that the proposed project will serve. Attach any documentation to support how the project will contribute to systemic educational reform in an Empowerment Zone, Suppplemental Empowerment Zone or an Enterprise Community
(See the competitive priority and the list of designated Empowerment Zones in previous sections of this application package.)

_____

PROGRAM ASSURANCES

NOTE: The authorizing statute requires applicants under certain programs to provide assurances. These assurances are specified below under the relevant programs. If your application pertains to any of these programs, this form must be completed.

As the duly authorized representative of the applicant, I certify that the applicant, in regard to the program relevant to this application:

- Teachers and Personnel Grants
- Career Ladder Program
- Training for All Teachers

Will include, if applicable, as part of the project implementing a master's or doctoral-level program, a training practicum in a local school program serving children and youth of limited English proficiency.
(Authority: 20 U.S.C. 7426(g)(3)

_____

Authorized Representative

Name: _____

Signature: _____

Typed Name: _____

Date: _____

Applicant Organization: _____

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. ээ276a to 276a-7), the Copeland Act (40 U.S.C. э276c and 18 U.S.C. ээ874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. ээ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. ээ1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. ээ7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12 Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. ээ1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. э470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. ээ469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. ээ2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. ээ4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, AAudits of States, Local Governments, and Non-Profit Organizations.≅

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. **LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. **DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled ACertification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions,≅ without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

Approved by OMB
0348-0046

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: a. contract ____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** a. bid/offer/application ____ b. initial award c. post-award	**3. Report Type:** a. initial filing ____ b. material change **For material change only:** Year _____ quarter _____ Date of last report_____

4. Name and Address of Reporting Entity: ____ Prime _____ Subawardee Tier_____, if Known: **Congressional District, if known:**	**5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District, if known:**
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known:*	**9. Award Amount,** *if known:* **$**
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:**_____ **Title:**_____ **Telephone No.:** _____ **Date:** _____
Federal Use Only	**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES
(as of January 13, 1999)

EMPOWERMENT ZONES

California: Los Angeles, Oakland, Santa Ana, Riverside County*
Connecticut: New Haven+
Florida: Miami+
Georgia: Atlanta, Cordele*+
Illinois: Chicago, East St. Louis+, Ullin*
Indiana: Gary, East Chicago
Kentucky: Kentucky Highlands* (Clinton, Jackson, and Wayne Counties)
Maryland: Baltimore
Massachusetts: Boston+
Michigan: Detroit
Minnesota: Minneapolis+
Mississippi: Mid-Delta* (Bolivar, Holmes, Humphreys, LeFlore, Sunflower, Washington Counties)
Missouri/Kansas: Kansas City, Kansas City
Missouri: St. Louis+
New Jersey: Cumberland County
New York: Harlem, Bronx
North Dakota: Lake Agassiz*
Ohio: Cleveland, Cincinnati, Columbus+
Ohio/West Virginia: Ironton/Huntington+
Pennsylvania/New Jersey: Philadephia/ Camden
South Carolina: Columbia/Sumter
South Dakota: Oglala Sioux Reservation in Pine Ridge*
Tennessee: Knoxville
Texas: Houston, El Paso+, Rio GrandeValley* (Cameron, Hidalgo, Starr, and Willacy Counties)
Virginia: Norfolk+/Portsmouth

ENTERPRISE COMMUNITIES

Alabama: Birmingham
Alabama: Chambers County* Greene County*, Sumter County*
Alaska: Juneau*
Arizona: Arizona Border* (Cochise, Santa Cruz and Yuma Counties), Phoenix, Window Rock*
Arkansas: East Central* (Cross, Lee, Monroe, and St. Francis Counties), Mississippi County*, Pulaski County
California: Imperial County*, Los Angeles, Huntington Park, San Diego, San Francisco, Bayview, Hunter's Point, Watsonville*, Orange Cove*
Colorado: Denver
Connecticut: Bridgeport, New Haven
Delaware: Wilmington
District of Columbia: Washington
Florida: Jackson County*, Miami, Dade County, Tampa, Immokalee*
Georgia: Albany, Central Savannah River*(Burke, Hancock, Jefferson, McDuffie, Tallafero, and Warren Counties), Crisp County*, Dooley County*
Hawaii: Kaunakakai*
Illinois: East St. Louis, Springfield
Indiana: Indianapolis, Austin*
Iowa: Des Moines
Kansas: Leoti*
Kentucky: Louisville, Bowling Green*
Louisiana: Macon Ridge* (Catahoula, Concordia, Franklin, Morehouse, and Tensas Parishes), New Orleans, Northeast Louisiana Delta* (Madison Parish), Ouachita Parish
Maine: Lewiston*
Massachusetts: Lowell, Springfield
Michigan: Five Cap*, Flint, Muskegon, Harrison*
Minnesota: Minneapolis, St. Paul
Mississippi: Jackson, North Delta Area* (Panola, Quitman, and Tallahatchie Counties)
Missouri: East Prairie*, St. Louis
Montana: Poplar*
Nebraska: Omaha
Nevada: Clarke County, Las Vegas
New Hampshire: Manchester
New Jersey: Newark
New Mexico: Albuquerque, La Jicarita* (Mora, Rio Arriba, Taos Counties), Deming*
New York: Albany, Schenectady, Troy
New York: Buffalo, Rochester
New York: Newburgh, Kingston
North Carolina: Charlotte
North Carolina: Edgecombe, Halifax, Robeson, Wilson Counties*
Ohio: Akron, Columbus, Greater Portsmouth* (Scioto County)
Oklahoma: Choctaw, McCurtain Counties*, Oklahoma City, Ada*
Oregon: Josephine County*, Portland
Pennsylvania: Harrisburg, Lock Haven*, Pittsburgh, Uniontown*
Rhode Island: Providence
South Carolina: Charleston, Williamsburg, Florence County*, Hallandale*
South Dakota: Beadle, Spink Counties*
Tennessee: Fayette, Haywood Counties*, Memphis, Nashville, Rutledge*
Tennessee/Kentucky: Scott, McCreary Counties*
Texas: Dallas, El Paso, San Antonio, Waco, Uvalde*
Utah: Ogden
Vermont: Burlington
Virginia: Accomack (Northampton County)*, Norfolk
Washington: Lower Yakima County*, Seattle, Tacoma, Collie*
West Virginia: Charleston*, Huntington, McDowell County*, West Central Appalachia* (Braxton, Clay, Fayette, Nicholas, and Roane)
Wisconsin: Milwaukee, Keshena*

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* Denotes rural designee
+Also an Enterprise Community, Round One

STATE SINGLE POINT OF CONTACT
(As of April 22, 1999)

Note: In accordance with Executive Order 12372, Intergovernmental Review of Federal Programs, this listing represents the designated State Single Points of Contact (SSPOCs). Because participation is voluntary, some States and Territories no longer participate in the process. These include: Alabama, Alaska, American Samoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington.

The jurisdictions not listed no longer participate in the process. However, an applicant is still eligible to apply for a grant or grants even if its respective State, Territory, Commonwealth, etc. does not have a SSPOC.

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Note: This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to Sherron Duncan at the Office of Management and Budget (202) 395-3914 and to the State in question. Changes to the list will only be made upon formal notification by the State. The list is updated every six months and is also published biannually in the Catalog of Federal Domestic Assistance. The last changes made were to Delaware, Indiana, Missouri, New Mexico, Puerto Rico, Rhode Island, Utah, and Wisconsin.

*Guam and the Virgin Islands are not confirmed.

[FR Doc. 00–25442 Filed 10–3–00; 8:45 am]
BILLING CODE 4000–01–C

Federal Register

Wednesday,
October 4, 2000

Part V

The President

Federal Register
Vol. 65, No. 193
Wednesday, October 4, 2000

Presidential Documents

Title 3—

The President

Proclamation 7346 of September 29, 2000

National Breast Cancer Awareness Month, 2000

By the President of the United States of America

A Proclamation

As we once again observe National Breast Cancer Awareness Month, we can be heartened by the progress we have made in the battle against breast cancer. Today we have a better under standing of what causes the disease, and advances in research are leading to improvements in detection and diagnosis and to treatments that are improving patients' quality of life and chances of survival.

Two million Americans today are breast cancer survivors, thanks in large part to earlier detection and more effective treatments. Statistics from the Centers for Disease Control and Prevention (CDC) show that nearly 70 percent of women aged 50 and older have had a mammogram in the past 2 years, compared with only 27 percent in 1987. While these increases were found among women at all income levels, those with lower incomes are still less likely to be screened than those at higher income levels. The National Cancer Institute (NCI) and the Health Care Financing Administration are working together to inform women aged 65 and older that Medicare coverage is available for mammography screenings; and the CDC's National Breast and Cervical Cancer Early Detection provides free or low-cost mammograms to uninsured, low-income, and elderly women. And, to assist the thousands of low-income uninsured women whose breast cancer was detected through federally funded screening programs, my proposed budget for fiscal 2001 includes a new Medicaid option to fund the lifesaving follow-up treatment they need to increase their chances of survival.

Research is one of our most powerful tools in our effort to eradicate breast cancer, and I am proud that my Administration has made historic increases in funding for biomedical research. A number of Federal agencies and programs are adding to our knowledge about the disease. The National Toxicology Program (NTP), which is part of the National Institute of Environmental Health Services, is studying chemical compounds that may cause cancer in humans. Based on data from the NTP, agencies such as the Environmental Protection Agency and the Food and Drug Administration are working to reduce human exposure to environ mental agents that might increase the risk for breast and other cancers. The NCI, through the Long Island Breast Cancer Study Project and the Triana Community Health Initiative, is exploring the possible relationship between different sources of pollution and the incidence of breast cancer. Findings from these studies will help researchers and health care providers identify women who are at higher risk for breast cancer and develop better strategies for preventing the disease.

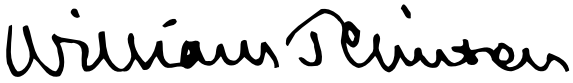
The NCI's landmark Breast Cancer Prevention Trial (BCPT) focused on tamoxifen, an anti-estrogen medication that helps reduce the chance that women who are at higher risk for breast cancer will develop the disease. Building on the success of the BCPT, a current study of tamoxifen and raloxifene will determine whether raloxifene is as effective as tamoxifen, with fewer side effects. The NCI is also sponsoring clinical trials of sentinel node biopsy, a procedure where the surgical removal of a small number of lymph nodes can determine whether cancer has spread outside of the breast.

The American people have also played a role in funding research through activities such as the purchase of the 40-cent breast cancer awareness stamp from the U.S. Postal Service. The sale of this stamp has raised millions of dollars for breast cancer research, and, on July 28 of this year, I was proud to sign legislation authorizing the sale of this special stamp for an additional 2 years.

We are gaining ground in our fight against breast cancer, but we cannot become complacent. This year alone, more than 40,000 Americans will die from the disease, and an estimated 184,200 new cases will be diagnosed. We must continue to raise awareness among our friends, loved ones, and fellow citizens about the importance of screening and early detection and the need to support new research. By doing so, we will one day triumph over this devastating disease and ensure a brighter, healthier future for our children.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 2000 as National Breast Cancer Awareness Month. I call upon government officials, businesses, communities, health care professionals, educators, volunteers, and all the people of the United States to publicly reaffirm our Nation's strong and continuing commitment to controlling and curing breast cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of September, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 00–25673
Filed 10–3–00; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7347 of September 29, 2000

National Disability Employment Awareness Month, 2000

By the President of the United States of America

A Proclamation

This year marks the 25th anniversary of the Individuals with Disabilities Education Act and the 10th anniversary of the Americans with Disabilities Act (ADA). These two landmark civil rights laws have opened the doors of opportunity for people with disabilities and increased our awareness of the enormous contributions that Americans with disabilities can make to our national life.

A decade ago, when we were debating the Americans with Disabilities Act, critics said that making workplaces, public transportation, public facilities, and telecommunications more accessible would be too costly and burdensome. But they have been proved wrong. Since passage of the ADA in 1990, more than a million men and women with disabilities have entered the labor force and, as taxpayers, consumers, and workers, they are contributing to a period of unprecedented prosperity and record employment in our country.

Throughout my Administration, we have worked hard to break down the barriers that people with disabilities continue to face on a daily basis. In 1998, I signed the Workforce Investment Act, requiring that information technology purchased by the Federal Government be accessible to people with disabilities. In 1999, I was proud to sign the Ticket to Work and Work Incentives Improvement Act, which enables Americans with disabilities to retain their Medicare or Medicaid coverage when they go to work, because no one should have to choose between health care and a job. We are also dramatically expanding the income students with disabilities can earn while retaining access to disability benefits; and to lead by example, we are hiring more people with disabilities throughout the Federal Government.

Today's revolution in information and communications technology offers us powerful new tools to expand employment and training opportunities for people with disabilities. Whether translating web pages aloud for people who are blind or visually impaired, creating captioning for those who are deaf or hard of hearing, or enabling people with physical disabilities to control a computer through eye movement and brain waves, these technologies show enormous potential for increasing access to employment and full participation in society. We are exploring ways that Medicare and Medicaid can be enhanced to cover the cost of assistive technology so that people can live and work more independently in the communities of their choosing. And I was pleased to announce on September 21 that dozens of corporate leaders from the technology sector and the presidents of many of America's leading research universities have pledged to make their products and services accessible to and usable by people with disabilities.

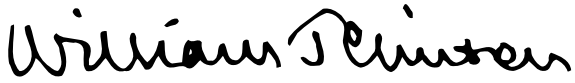
A new generation of young people with disabilities is growing up in America today—graduating from high school, going to college, and preparing to participate fully in the workplace. They have a right to make the most of their potential, and our Nation must make the most of their intellect, talents, and abilities. By working together to break down barriers for Americans

with disabilities, we will keep our economy growing, make a lasting investment in the future of our country, and uphold our fundamental commitment to justice and equality for all our people.

To recognize the enormous potential of individuals with disabilities and to encourage all Americans to work toward their full integration into the workforce, the Congress, by joint resolution approved August 11, 1945, as amended (36 U.S.C. 121), has designated October of each year as ''National Disability Employment Awareness Month.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim October 2000 as National Disability Employment Awareness Month. I call upon Government officials, educators, labor leaders, employers, and the people of the United States to observe this month with appropriate programs and activities that reaffirm our determination to fulfill the letter and spirit of the Americans with Disabilities Act.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of September, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 00–25674
Filed 10–3–00; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7348 of September 29, 2000

National Domestic Violence Awareness Month, 2000

By the President of the United States of America

A Proclamation

Domestic violence transcends all ethnic, racial, and socioeconomic boundaries. Its perpetrators abuse their victims both physically and mentally, and the effects of their attacks are far-reaching—weakening the very core of our communities. Domestic violence is particularly devastating because it so often occurs in the privacy of the home, which is meant to be a place of shelter and security. During the month of October, all Americans should contemplate the scars that domestic violence leaves on our society and what each of us can do to prevent it.

Because domestic violence usually takes place in private, many Americans may not realize how widespread it is. According to the National Violence Against Women Survey, conducted jointly by the Centers for Disease Control and Prevention and the National Institute of Justice, each year in the United States approximately 1.5 million women are raped and/or physically assaulted by their current or former husbands, partners, or boyfriends. Many of these women are victimized more than once over the course of a year. As unsettling as these statistics are, it is also disturbing to realize that the children of battered women frequently witness these attacks, thus becoming victims themselves.

My Administration has worked hard to reduce domestic violence in our Nation and to assist victims and their families. The cornerstone of our efforts has been the Violence Against Women Act (VAWA), which the Congress passed with bipartisan support in 1994 and which I signed into law as part of our comprehensive crime control bill. This important piece of legislation, which contains a broad array of ground-breaking measures to combat violence against women, combines tough penalties with programs to prosecute offenders and provide assistance to women who are survivors of violence.

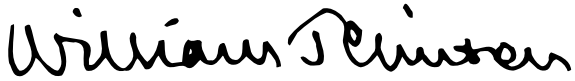
In the 6 years since I signed VAWA into law, the legislation has provided more than $1.6 billion to support prosecutors, law enforcement officials, courts, victim advocates, and intervention efforts. We have quadrupled funding for battered women's shelters, created the National Domestic Violence Hotline, and supported community outreach and prevention programs, children's counseling, and child protection services. The Department of Justice has awarded more than 900 discretionary grants and 280 STOP (Services, Training, Officers, Prosecutors) Violence Against Women formula grants to help State, tribal, and local governments and community-based organizations establish specialized domestic violence and sexual assault units, train personnel, enforce laws, develop policies, assist victims of violence, and hold abusers accountable.

These VAWA programs are making a difference across the country. A recent report by the Bureau of Justice Statistics shows that the number of women experiencing violence at the hands of an intimate partner declined 21 percent from 1993 to 1998. I call on the Congress to reauthorize and strengthen VAWA so that we may continue to build on the progress we have made in combating domestic violence in our Nation.

Through VAWA and other initiatives and programs, we are striving to create a responsive legal system in American communities that not only prevents domestic violence and sexual assault, but also ensures that every victim has immediate access to helpful information and emergency assistance. By taking strong public action against this crime, we are creating a society that promotes strong values, fosters a safe, loving home environment for every family, and refuses to tolerate domestic violence in any form.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 2000 as National Domestic Violence Awareness Month. I call upon government officials, law enforcement agencies, health professionals, educators, community leaders, and the American people to join together to end the domestic violence that threatens so many of our people.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of September, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 00–25675
Filed 10–3–00; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7349 of September 29, 2000

Child Health Day, 2000

By the President of the United States of America

A Proclamation

As parents and as concerned citizens, we have a profound responsibility to ensure that America's children not only receive a healthy start in life, but also that they continue to grow and develop in a nurturing environment where they have the opportunity to reach their full potential.

Recognizing the importance of healthy, happy children to the future of our Nation, my Administration has strived to offer America's families the tools they need to fulfill their responsibilities. In 1997, I was proud to sign into law the Child Health Insurance Program (CHIP), the largest investment in children's health care since the creation of Medicaid 35 years ago. This innovative program allows States to use Federal funds to provide health insurance for children of working families whose incomes are too high to qualify for Medicaid but too low to afford private health insurance. Children with health insurance are more likely to receive the immunizations and other preventive care they need to avoid serious illnesses and to enjoy a healthier start in life. In March of 1997, only 4 States provided such coverage for children. Today, 30 States have plans approved to cover qualified children, and I have proposed an additional $5.5 billion over the next 10 years to cover even more children and to raise awareness of CHIP among families who may not realize they are eligible.

In addition to quality health care, children need nutritious meals every day. I am pleased that our national school lunch program provides healthy lunches to more than 25 million students in more than 96,000 schools across our nation, ensuring that some of our most vulnerable children can look forward to at least one healthy meal each day. We can also be heartened to know that children enrolled in programs funded under the Department of Agriculture's Special Supplemental Program for Women, Infants, and Children not only receive the nutritious food they need, but also are immunized earlier, perform better in school, and spend less time in the doctor's office.

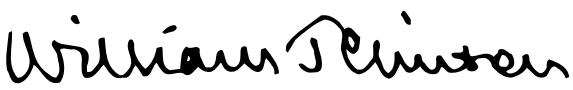
Since 1965, in addition to engaging parents in the early educational development of their children, the Head Start program has provided medical, mental health, nutrition, and dental services to more than 17 million children from birth to age 5. My Administration will continue this investment by increasing Head Start funding in our proposed fiscal 2001 budget by $1 billion—the largest Head Start expansion in history.

It is also our responsibility to ensure that our children feel part of a safe, strong, nurturing community. Through our Safe Schools/Healthy Students initiative, my Administration is helping parents, school principals, police, and mental health providers to collaborate on local solutions to school and youth violence. My proposed budget for fiscal 2001 includes an increase of more than $100 million for this program. I have also called on the Congress to allow eligible workers under the Family and Medical Leave Act to take up to 24 hours of additional leave each year to meet family obligations, including school activities such as parent-teacher conferences. America is enjoying a period of unprecedented economic success today; but we will never be truly successful as a Nation until we ensure that

all families have the tools and opportunity they need in order to raise healthy children. To acknowledge the importance of our children's health, the Congress, by joint resolution approved May 18, 1928, as amended (36 U.S.C. 105), has called for the designation of the first Monday in October as ''Child Health Day'' and has requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim Monday, October 2, 2000, as Child Health Day. I call upon families, schools, communities, and governments to dedicate themselves to promoting and protecting the health and well-being of all our children.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of September, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 00–25676
Filed 10–3–00; 8:45 am]
Billing code 3195–01–P

Federal Register

Wednesday,
October 4, 2000

Part VI

The President

Proclamation 7350—To Implement the African Growth and Opportunity Act and To Designate Eritrea as a Beneficiary Developing Country for Purposes of the Generalized System of Preferences

Proclamation 7351—To Implement the United States-Caribbean Basin Trade Partnership Act

Federal Register
Vol. 65, No. 193
Wednesday, October 4, 2000

Presidential Documents

Title 3—

The President

Proclamation 7350 of October 2, 2000

To Implement the African Growth and Opportunity Act and To Designate Eritrea as a Beneficiary Developing Country for Purposes of the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Section 111(a) of the African Growth and Opportunity Act (Title I of Public Law 106–200) (AGOA) amends Title V of the Trade Act of 1974, as amended (the ''1974 Act''), to provide, in new section 506A(a) (19 U.S.C. 2466a(a)), that the President is authorized to designate countries listed in section 107 of the AGOA as ''beneficiary sub-Saharan African countries.''

2. Section 112(a) of the AGOA (19 U.S.C. 3721(a)) provides that eligible textile and apparel articles that are imported directly into the customs territory of the United States from a beneficiary sub-Saharan African country shall enter the United States free of duty and free of quantitative limitations, provided that the country has satisfied the requirements of section 113(a) of the AGOA (19 U.S.C. 3722(a)) relating to the establishment of procedures to protect against unlawful transshipments, and section 113(b)(1)(B) of the AGOA (19 U.S.C. 3722(b)(1)(B)) relating to the implementation of procedures and requirements similar to those in chapter 5 of the North American Free Trade Agreement (NAFTA).

3. Section 112(b)(3)(B) of the AGOA (19 U.S.C. 3721(b)(3)(B)) provides special rules for certain apparel articles imported from ''lesser developed beneficiary sub-Saharan African countries.''

4. Section 112(c) of the AGOA (19 U.S.C. 3721(c)) provides that the President shall eliminate the existing quotas on textile and apparel articles imported into the United States (a) from Kenya within 30 days after that country adopts an effective visa system to prevent unlawful transshipment of textile and apparel articles and the use of counterfeit documents relating to the importation of the articles into the United States, and (b) from Mauritius within 30 days after that country adopts such a visa system.

5. In order to implement the tariff treatment provided under the AGOA, it is necessary to modify the Harmonized Tariff Schedule of the United States (HTS), thereby incorporating the substance of the relevant provisions of the AGOA.

6. Sections 501 and 502 of the 1974 Act (19 U.S.C. 2461 and 2462) authorize the President to designate countries as beneficiary developing countries for purposes of the Generalized System of Preferences (GSP).

7. Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

8. I have determined that it is appropriate to authorize the United States Trade Representative (USTR) to perform the functions specified in sections 112(c) and 113(b)(1)(B) of the AGOA and to make the findings identified in section 113(a) of the AGOA and to perform certain functions under section 604 of the 1974 Act.

9. For Sierra Leone, I have determined that it is appropriate to authorize the USTR to determine the effective date of its designation as a beneficiary sub-Saharan African country.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, sections 111, 112, and 113 of the AGOA, and sections 501, 502, 506A, and 604 of the 1974 Act, do proclaim that:

(1) In order to provide for the preferential treatment provided for in section 112(a) of the AGOA, the HTS is modified as provided in the Annex to this proclamation.

(2) The following countries are designated as beneficiary sub-Saharan African countries pursuant to section 506A(a) of the 1974 Act:

Republic of Benin

Republic of Botswana

Republic of Cape Verde

Republic of Cameroon

Central African Republic

Republic of Chad

Republic of Congo

Republic of Djibouti

State of Eritrea

Ethiopia

Gabonese Republic

Republic of Ghana

Republic of Guinea

Republic of Guinea-Bissau

Republic of Kenya

Kingdom of Lesotho

Republic of Madagascar

Republic of Malawi

Republic of Mali

Islamic Republic of Mauritania

Republic of Mauritius

Republic of Mozambique

Republic of Namibia

Republic of Niger

Federal Republic of Nigeria

Republic of Rwanda

Democratic Republic of São Tomé and Principe

Republic of Senegal

Republic of Seychelles

Republic of Sierra Leone

Republic of South Africa

United Republic of Tanzania

Republic of Uganda

Republic of Zambia

(3) For purposes of section 112(b)(3)(B) of the AGOA, the following designated beneficiary sub-Saharan African countries shall be considered lesser developed beneficiary sub-Saharan African countries:

Republic of Benin

Republic of Cape Verde

Republic of Cameroon

Central African Republic

Republic of Chad

Republic of Congo

Republic of Djibouti

State of Eritrea

Ethiopia

Republic of Ghana

Republic of Guinea

Republic of Guinea-Bissau

Republic of Kenya

Kingdom of Lesotho

Republic of Madagascar

Republic of Malawi

Republic of Mali

Islamic Republic of Mauritania

Republic of Mozambique

Republic of Niger

Federal Republic of Nigeria

Republic of Rwanda

Democratic Republic of São Tomé and Principe

Republic of Senegal

Republic of Sierra Leone

United Republic of Tanzania

Republic of Uganda

Republic of Zambia

(4) The USTR is authorized to determine whether each designated beneficiary sub-Saharan African country has satisfied the requirements of section 113(a) of the AGOA relating to the establishment of procedures to protect against unlawful transshipments and section 113(b)(1)(B) of the AGOA relating to the implementation of procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA. The determination or determinations of the USTR under this paragraph shall be set forth in a notice or notices that the USTR shall cause to be published in the **Federal Register**. Such notice or notices shall modify the HTS by listing the countries that satisfy the requirements of sections 113(a) and 113(b)(1)(B) of the AGOA. To implement such determination or determinations, the USTR is authorized to exercise the authority provided to the President under section 604 of the 1974 Act to embody modifications and technical or conforming changes in the HTS.

(5) The USTR is authorized to determine whether Kenya and Mauritius have satisfied the requirements of section 112(c) of the AGOA. The determination or determinations of the USTR under this paragraph shall be set forth

in a notice or notices that the USTR shall cause to be published in the **Federal Register**. Within 30 days after any such determination by the USTR, the USTR shall cause the existing quotas on textile and apparel articles imported into the United States from such country to be eliminated by direction to the appropriate agencies or departments. To implement such determination or determinations, the USTR is authorized to exercise the authority provided to the President under section 604 of the 1974 Act to embody modifications and technical or conforming changes in the HTS.

(6) The USTR is authorized to determine the effective date of the designation of the Republic of Sierra Leone as a beneficiary sub-Saharan African country and, therefore, the date upon which Sierra Leone will be considered a lesser developed beneficiary sub-Saharan African country. The determination of the USTR under this paragraph shall be set forth in a notice that the USTR shall cause to be published in the **Federal Register**. To implement such determination, the USTR is authorized to exercise the authority provided to the President under section 604 of the 1974 Act to embody modifications and technical or conforming changes in the HTS.

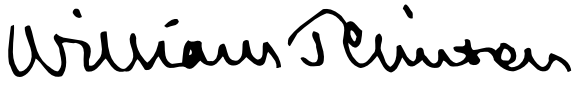
(7) Pursuant to sections 501 and 502 of the 1974 Act, Eritrea is designated as a beneficiary developing country for purposes of the GSP.

(8) In order to reflect in the HTS the designation of Eritrea as a beneficiary developing country under the GSP, general note 4(a) to the HTS is modified by inserting in alphabetical sequence ''Eritrea'' in the list of independent countries.

(9) Any provisions of previous proclamations and Executive orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(10) This proclamation is effective on the date of signature of this proclamation, except that (a) the modifications to the HTS made by the Annex to this proclamation, as further modified by any notice to be published in the **Federal Register** as described in paragraph 4 of this proclamation, shall be effective on the date announced by the USTR in such notice, and (b) the designation of the Republic of Sierra Leone as a beneficiary sub-Saharan African country shall be effective on the date announced by the USTR in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of October, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fifth.



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ANNEX

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the date published in the Federal Register by the United States Trade Representative, chapter 98 of the Harmonized Tariff Schedule of the United States is modified as set forth herein, with the material in the new tariff provisions being inserted in the columns labeled "Heading/Subheading", "Article Description", and "Rates of Duty 1-Special".

(1). The following new U.S. note is inserted in numerical sequence in subchapter II of chapter 98 of the tariff schedule:

"7. For purposes of the special tariff treatment authorized by the African Growth and Opportunity Act (AGOA) (title I of Pub.L. No. 106-200) for certain goods of heading 9802.00.80 imported directly from those beneficiary sub-Saharan African countries previously designated by proclamation that are subsequently enumerated in a notice published in the Federal Register by the United States Trade Representative (USTR) as having been determined to have satisfied the requirements of the AGOA and therefore to be afforded such tariff treatment, the duty-free treatment indicated for such heading shall apply only to apparel articles assembled in one or more such beneficiary countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of chapter 56 and are wholly formed and cut in the United States). Articles otherwise eligible to enter under this heading, and which satisfy the conditions set forth in U.S. note 3 to subchapter XIX of this chapter, shall not be ineligible to enter under this heading. Such countries shall be enumerated in this note whenever the USTR issues a Federal Register notice as described herein. Articles covered by the provisions of this note shall be eligible to enter the customs territory of the United States free of quantitative limitations."

(2). (a) The article description of heading 9802.00.80 is modified by inserting immediately after "heading 9802.00.90" the expression "and goods imported under provisions of subchapter XIX of this chapter".

(b) The Rates of Duty 1-Special subcolumn for such heading is modified by inserting below the last rate in such subcolumn the expression "Free, for qualifying articles from sub-Saharan African countries enumerated in U.S. note 7 to this subchapter".

(3). The following new subchapter XIX is inserted in chapter 98 of the HTS, together with its U.S. notes and tariff provisions:

"SUBCHAPTER XIX
TEXTILE AND APPAREL GOODS ELIGIBLE FOR SPECIAL TARIFF BENEFITS
UNDER THE AFRICA GROWTH AND OPPORTUNITY ACT

U.S. Notes

1. For purposes of this subchapter, the tariff treatment provided herein shall be accorded only to textile and apparel articles that are described in such subheadings and imported directly into the customs territory of the United States from those beneficiary sub-Saharan African countries previously designated by proclamation which have subsequently been determined in a Federal Register notice issued by the United States Trade Representative (USTR) to have satisfied the requirements of the African Growth and Opportunity Act (AGOA) (title I of Pub.L. No. 106-200) and therefore should be afforded the tariff treatment authorized in such Act and set forth in the provisions of this subchapter. Such countries shall be enumerated in this note whenever the USTR issues a Federal Register notice as described herein. Such articles shall be eligible to enter free of duty and free of any quantitative limitations, except as provided in the notes to this subchapter.

2. (a) Imports of apparel articles under subheadings 9819.11.09 and 9819.11.12 shall be limited, in the period beginning on the date announced in a notice published in the Federal Register by the United States Trade Representative and continuing through the close of September 30, 2001, to an aggregate quantity not to exceed 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available. Of that aggregate quantity, an amount not to exceed 1 percent of such aggregate square meter equivalents shall be eligible to enter under such subheadings during the period beginning on the date announced in such Federal Register notice and continuing through the close of December 31, 2000. The remaining 0.5 percent of such aggregate square meter equivalents, together with any quantity remaining unfilled from the 1 percent eligible to enter prior to January 1, 2001, shall be eligible to enter under such subheadings during the period beginning on January 1, 2001 and continuing through the close of September 30, 2001.

(b) Such imports of apparel articles under subheadings 9819.11.09 and 9819.11.12 shall be limited, in each of the seven one-year periods beginning on October 1, 2001, to an aggregate quantity not to exceed the applicable percentage set forth herein of aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available:

Annex (con.)
2

12-Month Period	Applicable Percentage
October 1, 2001 through September 30, 2002	1.7857
October 1, 2002 through September 30, 2003	2.0714
October 1, 2003 through September 30, 2004	2.3571
October 1, 2004 through September 30, 2005	2.6428
October 1, 2005 through September 30, 2006	2.9285
October 1, 2006 through September 30, 2007	3.2142
October 1, 2007 through September 30, 2008	3.5

(c) The aggregate quantity of imports allowed during each enumerated 12-month period shall be published in the Federal Register by the Committee for the Implementation of Textile Agreements.

(d) For purposes of subheading 9819.11.12, only those designated beneficiary sub-Saharan African countries that have been enumerated in U.S. note 1 to this subchapter, following publication of a notice by the United States Trade Representative, shall be eligible to be treated as lesser developed beneficiary countries pursuant to section 112(b)(3)(B) of the AGOA (19 U.S.C. 3721(b)(3)(B)). Countries qualifying for designation as a lesser developed beneficiary country shall be enumerated in this note whenever the USTR issues a Federal Register notice as described herein and shall be eligible to enter goods under such subheading as of the effective date announced in such notice.

3. (a) An article otherwise eligible for preferential treatment under any provision of this subchapter shall not be ineligible for such treatment because the article contains--

(i) findings or trimmings of foreign origin, if the value of such findings and trimmings does not exceed 25 percent of the cost of the components of the assembled article; or

(ii) certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings of foreign origin) does not exceed 25 percent of the cost of the components of the assembled article; or

(iii) fibers or yarns not wholly formed in the United States or in one or more designated beneficiary countries enumerated in U.S. note 1 to this subchapter, provided that the total weight of all such fibers and yarns is not more than 7 percent of the total weight of the article.

(b) For purposes of subdivision (a)(i) above, findings or trimmings eligible under such subdivision include sewing thread, hooks and eyes, snaps, buttons, "bow buds", decorative lace trim, elastic strips, and zippers, including zipper tapes and labels. Elastic strips are considered findings or trimmings only if they are each less than 2.54 cm in width and used in the production of brassieres. For purposes of articles described in subheading 9819.11.06, sewing thread shall not be considered to be findings or trimmings.

(c) For purposes of subdivision (a)(ii) above, the interlinings eligible under such subdivision include only a chest type plate, a "hymo" piece, or "sleeve header", of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

4. For purposes of subheading 9819.11.27, goods entered under this provision must be certified, by a competent authority of a designated beneficiary country enumerated in U.S. note 1 to this subchapter, as eligible products of such country, in accordance with any requirements established by the appropriate U.S. government authority.

	Articles imported from a designated beneficiary sub-Saharan African country enumerated in U.S. note 1 to this subchapter:		
9819.11.03	Apparel articles of chapter 61 or 62 assembled in one or more such countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 and are wholly formed and cut in the United States), the foregoing which (1) are embroidered or were subjected to stone-washing, enzyme-washing, acid washing, permapressing, oven-baking, bleaching, garment-dyeing, screen printing or other similar processes, and (2) but for such embroidery or processing are of a type otherwise described in heading 9802.00.80 of the tariff schedule.....		Free
9819.11.06	Apparel articles cut in one or more such countries from fabric wholly formed in the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 and are wholly formed in the United States), where such articles are assembled in one or more such countries with thread formed in the United States.....		Free

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	[Articles...(con.):]		
9819.11.09	Apparel articles wholly assembled in one or more such countries from fabric wholly formed in one or more such countries from yarn originating in either the United States or one or more such countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 and are wholly formed and cut in one or more such countries), subject to the provisions of U.S. note 2 to this subchapter	Free	
9819.11.12	Apparel articles wholly assembled in a lesser developed such country enumerated in U.S. note 2(d) to this subchapter, subject to the provisions of U.S. note 2 to this subchapter, if entered during the period beginning on the date announced in a Federal Register notice issued by the United States Trade Representative and continuing through September 30, 2004, inclusive	Free	
9819.11.15	Sweaters, in chief weight of cashmere, knit-to-shape in one or more such countries, the foregoing classifiable in subheading 6110.10	Free	
9819.11.18	Sweaters containing 50 percent or more by weight of wool measuring 18.5 microns in diameter or finer, knit-to-shape in one or more such countries	Free	
9819.11.21	Apparel articles both cut (or knit-to-shape) and sewn or otherwise assembled in one or more such countries from fabrics or yarn that is not formed in the United States or a beneficiary country, provided that such apparel articles of such fabrics or yarn would be considered an originating good under the terms of general note 12(t) to the tariff schedule without regard to the source of the fabric or yarn if such apparel article had been imported from the territory of Canada or the territory of Mexico directly into the customs territory of the United States	Free	
9819.11.24	Apparel articles both cut (or knit-to-shape) and sewn or otherwise assembled in one or more such countries from fabrics or yarn designated by the appropriate U.S. government authority in the Federal Register as fabrics or yarn not available in commercial quantities in the United States, under any terms as such authority may provide	Free	
9819.11.27	Handloomed, handmade or folklore textile and apparel goods, under the provisions of U.S. note 4 to this subchapter	Free	."

[FR Doc. 00–25692
Filed 10–3–00; 11:03 am]
Billing code 3190–01–C

Presidential Documents

Proclamation 7351 of October 2, 2000

To Implement the United States-Caribbean Basin Trade Partnership Act

By the President of the United States of America

A Proclamation

1. Section 211 of the United States-Caribbean Basin Trade Partnership Act (Title II of Public Law 106–200) (CBTPA), which amends section 213(b) of the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2703(b)), provides that certain preferential tariff treatment may be provided to eligible articles that are the product of any country that the President designates as a ''CBTPA beneficiary country'' pursuant to section 213(b)(5)(B) of the CBERA (19 U.S.C. 2703(b)(5)(B)), provided that the President determines that the country has satisfied the requirements of section 213(b)(4)(A)(ii) of the CBERA (19 U.S.C. 2703(b)(4)(A)(ii)) relating to the implementation of procedures and requirements similar to those in chapter 5 of the North American Free Trade Agreement (NAFTA).

2. Section 211 of the CBTPA, which amends section 213(b) of the CBERA (19 U.S.C. 2703(b)), provides that eligible textile and apparel articles of a designated CBTPA beneficiary country shall enter the United States free of duty and free of quantitative limitations, provided that the President determines that the country has satisfied the requirements of section 213(b)(4)(A)(ii) of the CBERA relating to the implementation of procedures and requirements similar to those in chapter 5 of the NAFTA.

3. Section 212 of the CBTPA, which amends section 213(a) of the CBERA (19 U.S.C. 2703(a)), provides duty-free treatment for certain liqueurs and spirituous beverages produced in Canada from rum that originates in a designated beneficiary country or the Virgin Islands of the United States.

4. In order to implement the tariff treatment provided under the CBTPA, it is necessary to modify the Harmonized Tariff Schedule of the United States (HTS), thereby incorporating the substance of the relevant provisions of the CBTPA.

5. Section 604 of the Trade Act of 1974 (the ''1974 Act'') (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

6. I have determined that it is appropriate to authorize the United States Trade Representative (USTR) to perform the functions specified in section 213(b)(4)(A)(ii) of the CBERA and certain functions under section 604 of the 1974 Act.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, sections 211 and 212 of the CBTPA, section 213 of the CBERA, and section 604 of the 1974 Act, do proclaim that:

(1) In order to provide for the preferential treatment provided for in section 213 of the CBERA (19 U.S.C. 2703), as amended by the CBTPA, the HTS is modified as provided in the Annex to this proclamation.

(2) The following countries are designated as CBTPA beneficiary countries pursuant to section 213(b)(5)(B) of the CBERA:

Antigua and Barbuda

Aruba

Bahamas

Barbados

Belize

Costa Rica

Dominica

Dominican Republic

El Salvador

Grenada

Guatemala

Guyana

Haiti

Honduras

Jamaica

Montserrat

Netherlands Antilles

Nicaragua

Panama

St. Kitts and Nevis

Saint Lucia

Saint Vincent and the Grenadines

Trinidad and Tobago

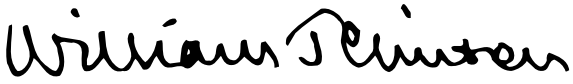
British Virgin Islands

(3) The USTR is authorized to determine whether each designated beneficiary country has satisfied the requirements of section 213(b)(4)(A)(ii) of the CBERA relating to the implementation of procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA. To implement such determination or determinations, the USTR is authorized to exercise the authority provided to the President under section 604 of the 1974 Act to embody modifications and technical or conforming changes in the HTS. The determination or determinations of the USTR under this paragraph shall be set forth in a notice or notices that the USTR shall cause to be published in the **Federal Register**. Such notice or notices shall modify general note 17 of the HTS by listing the countries that satisfy the requirements of section 213(b)(4)(A)(ii) of the CBERA.

(4) Any provisions of previous proclamations and Executive orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(5) This proclamation is effective on the date of signature of this proclamation, except that the modifications to the HTS made by the Annex to this proclamation, as further modified by any notice to be published in the **Federal Register** as described in paragraph 3 of this proclamation, shall be effective on the date announced by the USTR in such notice.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of October, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fifth.



Billing code 3195–01–P

ANNEX

Section A. Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the date published by the United States Trade Representative in the *Federal Register*, the Harmonized Tariff Schedule of the United States (HTS) is modified as set forth herein, with the material in the new tariff provisions being inserted in the columns labeled "Heading/Subheading", "Article Description", and "Rates of Duty 1-Special".

(1). General note 3(c)(i) to the tariff schedule is modified by inserting at the end thereof a new line reading "United States-Caribbean Basin Trade Partnership Act...R".

(2). General notes 16, 17, 18, 19, 20 and 21 to the tariff schedule are redesignated as general notes 18, 19, 20, 21, 22 and 23.

(3). The following new general note 17 to the tariff schedule is inserted in numerical sequence:

"17. Products of Countries Designated as Beneficiary Countries under the United States-Caribbean Basin Trade Partnership Act of 2000.

(a) The Caribbean Basin countries that will be enumerated in this note in a Federal Register notice by the United States Trade Representative, having previously been designated by the President pursuant to section 211 of the United States-Caribbean Basin Trade Partnership Act (CBTPA), shall be treated as beneficiary countries for purposes of this note on and after the effective date announced in such notice.

(b) Articles provided for in a provision for which a rate of duty appears in the "Special" subcolumn followed by the symbol "R" in chapters 1 through 97 of the tariff schedule are those designated by the President to be eligible articles for purposes of the CBTPA pursuant to section 211 of that Act. Whenever an eligible article which is a good of one or more designated beneficiary CBTPA countries enumerated in subdivision (a) of this note is imported directly into the customs territory of the United States, such article shall be entitled to receive the duty-free or reduced duty treatment provided for herein, provided that such good--

(i) was wholly obtained or produced entirely in the territory of one or more designated beneficiary countries enumerated in subdivision (a) of this note, or

(ii) would be an originating good for purposes of general note 12 to the tariff schedule, if such good were imported thereunder.

No article or material of a designated beneficiary country enumerated in subdivision (a) of this note and receiving the tariff treatment specified in this note shall be eligible for such duty-free treatment by virtue of having merely undergone simple combining or packing operations, or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(c) Whenever a rate of duty other than "Free" appears in the "Special" rates of duty subcolumn for any heading or subheading followed by the symbol "E" or "E*" and a lower rate of duty appears in such subcolumn followed by the symbol "R", an eligible article under the terms of this note entered under such provision from a designated beneficiary CBTPA country enumerated in subdivision (a) of this note shall receive such lower rate of duty.

(d) The duty-free treatment provided for in this note shall be effective with respect to eligible articles from a designated CBTPA country enumerated in subdivision (a) of this note that are entered, or withdrawn from warehouse for consumption, on or after the date announced in a Federal Register notice issued by the United States Trade Representative, and shall remain in effect through the earlier of--

(i) the close of September 30, 2008; or

(ii) the date on which the Free Trade Area of the Americas or another free trade agreement that makes substantial progress in achieving the negotiating objectives set forth in section 108(b)(5) of Public Law 103-182 (19 U.S.C. 3317(b)(5)) enters into force with respect to the United States and the CBTPA beneficiary country."

(4). The Rates of Duty 1-Special subcolumn in the HTS is modified for each of the following HTS provisions by inserting the symbol "R" in alphabetical order in the parentheses following the "Free" rate of duty.

2710.00.35	4602.10.25	6402.19.50	6402.99.14	6404.11.90
2710.00.40	4602.10.29	6402.19.70	6403.19.40	6404.19.40
4602.10.21	6401.92.60	6402.19.90	6403.59.15	6404.19.90
4602.10.22	6402.19.15	6402.30.60	6404.11.40	6406.10.50

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(5). Subchapter XVII of chapter 98 of the HTS is modified by inserting in numerical sequence the following new U.S. note and heading:

"6. For purposes of heading 9817.22.05, the duty-free treatment shall apply to liqueurs and spirituous beverages produced in the territory of Canada from rum if--

(i) such rum is the growth, product, or manufacture of a designated Caribbean Basin Economic Recovery Act (CBERA) beneficiary country enumerated in general note 7(a) to the tariff schedule or of the Virgin Islands of the United States;

(ii) such rum is imported directly from a designated CBERA beneficiary country enumerated in general note 7(a) to the tariff schedule or from the Virgin Islands of the United States into the territory of Canada, and such liqueurs and spirituous beverages are imported directly from the territory of Canada into the customs territory of the United States;

(iii) when imported into the customs territory of the United States, such liqueurs and spirituous beverages are classified in subheading 2208.40 or 2208.90 of the tariff schedule; and

(iv) such rum accounts for at least 90 percent by volume of the alcoholic content of such liqueurs and spirituous beverages.

9817.22.05	: Rum, tafia, liqueurs and spirituous beverages, of a type classifiable in : subheading 2208.40 or 2208.90 and described in U.S. note 6 to this : subchapter.....	:	: Free : "

Section B. Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the date published in the Federal Register by the United States Trade Representative, chapter 98 of the Harmonized Tariff Schedule of the United States is modified as set forth herein, with the material in the new tariff provisions being inserted in the columns labeled "Heading/Subheading", "Article Description", and "Rates of Duty 1-Special".

(1). The following new U.S. note is inserted in numerical sequence in subchapter II of chapter 98 of the tariff schedule:

"7. For purposes of heading 9802.00.80, duty-free treatment shall be accorded to the following articles imported directly from a beneficiary United States-Caribbean Basin Trade Partnership Act (CBTPA) country previously designated by the President in a proclamation issued pursuant to such Act and enumerated in general note 17(a) to the tariff schedule–

(i) apparel articles assembled in one or more such beneficiary countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of chapter 56 and are wholly formed and cut in the United States); or

(ii) textile luggage assembled in a designated beneficiary country from fabric wholly formed and cut in the United States, from yarns wholly formed in the United States.

Articles otherwise eligible to enter under this heading, and which satisfy the conditions set forth in U.S. note 3 to subchapter XX of this chapter, shall not be ineligible to enter under this heading. Articles covered by the terms of this note shall be admitted into the customs territory of the United States free of quantitative limitations. "

(2). (a) The article description of heading 9802.00.80 is modified by inserting immediately after "heading 9802.00.90" the expression "and goods imported under provisions of subchapter XX".

(b) The Special rates of duty subcolumn for such heading is modified by inserting below the last rate in such subcolumn the expression "Free, for products described in U.S. note 7 to this subchapter".

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(3). The following new subchapter XX is inserted in chapter 98 of the HTS, together with its U.S. notes and tariff provisions:

"SUBCHAPTER XX
GOODS ELIGIBLE FOR SPECIAL TARIFF BENEFITS UNDER THE
UNITED STATES-CARIBBEAN BASIN TRADE PARTNERSHIP ACT

U.S. Notes

1. The tariff treatment provided in this subchapter shall be accorded only to textile and apparel articles that are described in such subheadings and imported directly into the customs territory of the United States from a designated United States-Caribbean Basin Trade Partnership Act (CBTPA) beneficiary country enumerated in general note 17(a) to the tariff schedule.

2. (a) Except as provided in this note, textile and apparel articles described in subheadings 9820.11.03 through 9820.11.30, inclusive, of this subchapter that are imported directly into the customs territory of the United States from a designated beneficiary CBTPA country enumerated in general note 17(a) to the tariff schedule shall be eligible to enter free of duty and free of any quantitative limitations, except as provided in this subchapter, under the terms of the provisions set forth in such subheadings and applicable legal notes, as indicated by the rate of duty of "Free" in the Special rates of duty subcolumn for such provisions.

(b) Imports of apparel articles under subheading 9820.11.09 shall be limited, in the period beginning on the date announced in a Federal Register notice issued by the United States Trade Representative and continuing through the close of September 30, 2001, to an aggregate quantity not to exceed 250,000,000 square meter equivalents. Such imports of apparel articles shall be limited, during each of the one-year periods provided for herein, to the following aggregate quantity of square meter equivalents:

12-Month Period	Square Meter Equivalents
October 1, 2001 through September 30, 2002	290,000,000
October 1, 2002 through September 30, 2003	336,400,000
October 1, 2003 through September 30, 2004 and subsequent 12-month periods	390,224,000

(c) Imports of t-shirts under subheading 9820.11.12 shall be limited, in the period beginning on the date announced in a Federal Register notice issued by the United States Trade Representative and continuing through the close of September 30, 2001, to an aggregate quantity not to exceed 4,200,000 dozen. Such imports of such t-shirts shall be limited, during each of the one-year periods provided for herein, to the following aggregate quantity:

12-Month Period	Aggregate Quantity in Dozens
October 1, 2001 through September 30, 2002	4,872,000
October 1, 2002 through September 30, 2003	5,651,520
October 1, 2003 through September 30, 2004	6,555,763
October 1, 2004 through September 30, 2005 and subsequent 12-month periods	7,604,685

(d) For purposes of subheading 9820.11.15, imports of brassieres of a producer or an entity controlling production, during the period beginning on October 1, 2001, and during each of the six succeeding 1-year periods, shall be eligible for preferential treatment only if the aggregate cost of fabric components formed in the United States that are used in the production of all such articles of that producer or entity during the preceding 1-year period is at least 75 percent of the aggregate declared customs value of the fabric contained in all such articles of that producer or entity that are entered during the preceding 1-year period. The United States Customs Service shall develop and implement methods and procedures to ensure ongoing compliance with the provisions of this paragraph. If the Customs Service finds that a producer or an entity controlling production has not satisfied such provisions in a 1-year period, then such apparel articles of that producer or entity shall be ineligible for preferential treatment under subheading 9820.11.15 during any succeeding 1-year period until the aggregate cost of fabric components formed in the United States used in the production of such articles of that producer or entity in the preceding 1-year period is at least 85 percent of the aggregate declared customs value of the fabric contained in all such articles of that producer or entity that are entered during the preceding 1-year period.

3. (a) An article otherwise eligible for preferential treatment under any provision of this subchapter shall not be ineligible for such treatment because the article contains--

(i) findings or trimmings of foreign origin, if the value of such findings and trimmings does not exceed 25 percent of the cost of the components of the assembled article; or

(ii) certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings of foreign origin) does not exceed 25 percent of the cost of the components of the assembled article; or

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(iii) fibers or yarns not wholly formed in the United States or in one or more designated beneficiary countries enumerated in general note 17(a) to the tariff schedule, provided that the total weight of all such fibers and yarns is not more than 7 percent of the total weight of the article.

Notwithstanding subdivision (iii) above, an apparel article containing elastomeric yarns shall be eligible for preferential tariff treatment under this note only if such yarns are wholly formed in the United States.

(b) For purposes of subdivision (a)(i) above, findings or trimmings eligible under such subdivision include sewing thread, hooks and eyes, snaps, buttons, "bow buds", decorative lace trim, elastic strips, zippers (including zipper tapes and labels) and other similar products. Elastic strips are considered findings or trimmings only if they are each less than 2.54 cm in width and used in the production of brassieres. For purposes of articles described in subheading 9820.11.06 and 9820.11.18, sewing thread shall not be considered to be findings or trimmings.

(c) For purposes of subdivision (a)(ii) above, the interlinings eligible under such subdivision include only a chest type plate, a "hymo" piece, or "sleeve header", of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

(d) For purposes of U.S. note 7(i) to subchapter II of this chapter and subheadings 9820.11.03, 9820.11.06 and 9820.11.18, an article otherwise eligible for preferential treatment under such subheadings shall not be ineligible for such treatment because the article contains nylon filament yarn (other than elastomeric yarn) classifiable under subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5401.41.90, 5402.51.00 or 5402.61.00 of the tariff schedule that entered free of duty as a product of Israel under the terms of general note 8 to the tariff schedule or as a good of Canada or a good of Mexico under the terms of general note 12 to the tariff schedule.

4. For purposes of subheading 9820.11.30, goods entered under this provision must be certified, by a competent authority of a designated beneficiary country enumerated in general note 17(a) to the tariff schedule, as eligible products of such country, in accordance with requirements established by the appropriate U.S. government authority.

	Articles imported from a designated beneficiary Caribbean Basin Trade Partnership country enumerated in general note 17(a) to the tariff schedule:		
9820.11.03	Apparel articles of chapter 61 or 62 assembled in one or more such countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 and are wholly formed and cut in the United States), the foregoing which (1) are embroidered or were subjected to stone-washing, enzyme-washing, acid washing, permapressing, oven-baking, bleaching, garment-dyeing, screen printing or other similar processes, and (2) but for such embroidery or processing are of a type otherwise described in heading 9802.00.80 of the tariff schedule.....	Free	
9820.11.06	Apparel articles cut in one or more such countries from fabric wholly formed in the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 and are wholly formed in the United States), if such articles are assembled in one or more such countries with thread formed in the United States.....	Free	
9820.11.09	Apparel articles (other than socks provided for in heading 6115 of the tariff schedule) knit to shape in such a country from yarns wholly formed in the United States; knitted or crocheted apparel articles (except t-shirts, other than underwear, classifiable in subheadings 6109.10.00 and 6109.90.10 and described in subheading 9820.11.12) cut and wholly assembled in one or more such countries from fabrics formed in one or more such countries or from fabrics formed in one or more such countries and the United States, all the foregoing from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 of the tariff schedule and are formed in one or more such countries) and subject to the provisions of U.S. note 2(b) to this subchapter.....	Free	
9820.11.12	T-shirts, other than underwear, classifiable in subheadings 6109.10.00 and 6109.90.10 of the tariff schedule, made in one or more such countries from fabric formed in one or more such countries from yarns wholly formed in the United States, subject to the provisions of U.S. note 2(c) to this subchapter.....	Free	

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	[Articles...(con.):]	
9820.11.15	Brassieres classifiable in subheading 6212.10 of the tariff schedule, both cut and sewn or otherwise assembled in the United States or one or more such countries or both, subject to the provisions of U.S. note 2(d) to this subchapter	Free
9820.11.18	Knitted or crocheted apparel articles (except t-shirts, other than underwear, classifiable in subheadings 6109.10.00 and 6109.90.10 and described in subheading 9820.11.12) cut and assembled in one or more such countries from fabrics wholly formed in the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 of the tariff schedule and are formed wholly in the United States), if such assembly is with thread formed in the United States	Free
9820.11.21	Textile luggage assembled in such a country from fabric cut in a beneficiary country from fabric wholly formed in the United States from yarns wholly formed in the United States	Free
9820.11.24	Apparel articles both cut (or knit-to-shape) and sewn or otherwise assembled in one or more such countries from fabrics or yarn not formed in the United States or in one or more such countries, provided that such apparel articles of such fabrics or yarn would be considered an originating good under the terms of general note 12(t) to the tariff schedule without regard to the source of the fabric or yarn if such apparel article had been imported from the territory of Canada or the territory of Mexico directly into the customs territory of the United States	Free
9820.11.27	Apparel articles both cut (or knit-to-shape) and sewn or otherwise assembled in one or more such countries from fabrics or yarn designated by the appropriate U.S. government authority in the Federal Register as fabrics or yarn not available in commercial quantities in the United States, under any terms as such authority may provide	Free
9820.11.30	Handloomed, handmade or folklore textile and apparel goods, under the terms of U.S. note 4 to this subchapter	Free

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Section C. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the dates set forth in this table for each of the following subheadings, the Rates of Duty 1-Special subcolumn in the HTS is modified by (i) inserting the rate of duty specified in the Initial Stage column in this table, which shall be effective on or after the date specified in a notice issued by the United States Trade Representative and through the close of December 31, 2000, followed by the symbol "R" in parentheses, and (ii) for each of the subsequent dated columns in this table the rate of duty in the HTS that is followed by the symbol "R" in parentheses is deleted and the rate of duty for such dated column is inserted in such subheading in lieu thereof.

HTS Subheading	Initial Stage	January 1, 2001	January 1, 2002	January 1, 2003	January 1, 2004	January 1, 2005	January 1, 2006	January 1, 2007	January 1, 2008
1604.14.10	18.6%	16.3%	14%	11.6%	9.3%	7%	4.6%	2.3%	Free
1604.14.20	3.2%	2.8%	2.4%	2%	1.6%	1.2%	0.8%	0.4%	Free
1604.14.30	6.6%	5.8%	5%	4.1%	3.3%	2.5%	1.6%	0.8%	Free
2709.00.10	1.5¢/bbl	1¢/bbl	0.5¢/bbl	Free	Free	Free	Free	Free	Free
2709.00.20	3.1¢/bbl	2.1¢/bbl	1¢/bbl	Free	Free	Free	Free	Free	Free
2710.00.05	1.5¢/bbl	1¢/bbl	0.5¢/bbl	Free	Free	Free	Free	Free	Free
2710.00.10	3.1¢/bbl	2.1¢/bbl	1¢/bbl	Free	Free	Free	Free	Free	Free
2710.00.15	15.7¢/bbl	10.5¢/bbl	5.2¢/bbl	Free	Free	Free	Free	Free	Free
2710.00.18	15.7¢/bbl	10.5¢/bbl	5.2¢/bbl	Free	Free	Free	Free	Free	Free
2710.00.20	3.1¢/bbl	2.1¢/bbl	1¢/bbl	Free	Free	Free	Free	Free	Free
2710.00.25	3.1¢/bbl	2.1¢/bbl	1¢/bbl	Free	Free	Free	Free	Free	Free
2710.00.30	25.2¢/bbl	16.8¢/bbl	8.4¢/bbl	Free	Free	Free	Free	Free	Free
2710.00.45	3.1¢/bbl	2.1¢/bbl	1¢/bbl	Free	Free	Free	Free	Free	Free
4202.11.00	2.4%	1.6%	0.8%	Free	Free	Free	Free	Free	Free
4202.12.20	6%	4%	2%	Free	Free	Free	Free	Free	Free
4202.19.00	6%	4%	2%	Free	Free	Free	Free	Free	Free
4202.21.30	1.5%	1%	0.5%	Free	Free	Free	Free	Free	Free
4202.21.60	3%	2%	1%	Free	Free	Free	Free	Free	Free
4202.21.90	2.7%	1.8%	0.9%	Free	Free	Free	Free	Free	Free
4202.22.15	6%	4%	2%	Free	Free	Free	Free	Free	Free
4202.29.90	6%	4%	2%	Free	Free	Free	Free	Free	Free
4202.31.60	2.4%	1.6%	0.8%	Free	Free	Free	Free	Free	Free
4202.91.00	2%	1.3%	0.6%	Free	Free	Free	Free	Free	Free
4202.92.45	6%	4%	2%	Free	Free	Free	Free	Free	Free
4202.99.90	6%	4%	2%	Free	Free	Free	Free	Free	Free
4203.10.40	1.8%	1.2%	0.6%	Free	Free	Free	Free	Free	Free
4203.29.08	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free
4203.29.18	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free
6401.10.00	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
6401.91.00	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
6401.92.90	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
6401.99.30	13.3%	11.6%	10%	8.3%	6.6%	5%	3.3%	1.6%	Free
6401.99.60	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
6401.99.90	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
6402.19.05	1.8%	1.2%	0.6%	Free	Free	Free	Free	Free	Free
6402.30.30	1.8%	1.2%	0.6%	Free	Free	Free	Free	Free	Free
6402.30.50	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
6402.30.70	48¢/pr. + 20%	42¢/pr. + 17.5%	36¢/pr. + 15%	30¢/pr. + 12.5%	24¢/pr. + 10%	18¢/pr. + 7.5%	12¢/pr. + 5%	6¢/pr. + 2.5%	Free
6402.30.80	48¢/pr. + 10.6%	42¢/pr. + 9.3%	36¢/pr. + 8%	30¢/pr. + 6.6%	24¢/pr. + 5.3%	18¢/pr. + 4%	12¢/pr. + 2.6%	6¢/pr. + 1.3%	Free
6402.30.90	6%	4%	2%	Free	Free	Free	Free	Free	Free
6402.91.40	1.8%	1.2%	0.6%	Free	Free	Free	Free	Free	Free
6402.91.50	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
6402.91.60	14.4%	9.6%	4.8%	Free	Free	Free	Free	Free	Free
6402.91.70	27¢/pr. + 11.2%	18¢/pr. + 7.5%	9¢/pr. + 3.7%	Free	Free	Free	Free	Free	Free
6402.91.80	48¢/pr. + 10.6%	42¢/pr. + 9.3%	36¢/pr. + 8%	30¢/pr. + 6.6%	24¢/pr. + 5.3%	18¢/pr. + 4%	12¢/pr. + 2.6%	6¢/pr. + 1.3%	Free
6402.91.90	10.6%	9.3%	8%	6.6%	5.3%	4%	2.6%	1.3%	Free
6402.99.05	2.4%	1.6%	0.8%	Free	Free	Free	Free	Free	Free
6402.99.10	3.7%	2.5%	1.2%	Free	Free	Free	Free	Free	Free
6402.99.18	1.8%	1.2%	0.6%	Free	Free	Free	Free	Free	Free
6402.99.20	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
6402.99.30	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
6402.99.60	14.4%	9.6%	4.8%	Free	Free	Free	Free	Free	Free

Annex (con.)
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HTS Subheading	Initial Stage	January 1, 2001	January 1, 2002	January 1, 2003	January 1, 2004	January 1, 2005	January 1, 2006	January 1, 2007	January 1, 2008
6402.99.80	48¢/pr. + 10.6%	42¢/pr. + 9.3%	36¢/pr. + 8%	30¢/pr. + 6.6%	24¢/pr. + 5.3%	18¢/pr. + 4%	12¢/pr. + 2.6%	6¢/pr. + 1.3%	Free
6402.99.90	10.6%	9.3%	8%	6.6%	5.3%	4%	2.6%	1.3%	Free
6403.19.10	1.5%	1%	0.5%	Free	Free	Free	Free	Free	Free
6403.19.30	2.5%	1.7%	0.8%	Free	Free	Free	Free	Free	Free
6403.19.50	3%	2%	1%	Free	Free	Free	Free	Free	Free
6403.40.30	1.5%	1%	0.5%	Free	Free	Free	Free	Free	Free
6403.40.60	2.5%	1.7%	0.8%	Free	Free	Free	Free	Free	Free
6403.51.30	1.5%	1%	0.5%	Free	Free	Free	Free	Free	Free
6403.51.60	2.5%	1.7%	0.8%	Free	Free	Free	Free	Free	Free
6403.51.90	3%	2%	1%	Free	Free	Free	Free	Free	Free
6403.59.30	1.5%	1%	0.5%	Free	Free	Free	Free	Free	Free
6403.59.60	2.5%	1.7%	0.8%	Free	Free	Free	Free	Free	Free
6403.59.90	3%	2%	1%	Free	Free	Free	Free	Free	Free
6403.91.30	1.5%	1%	0.5%	Free	Free	Free	Free	Free	Free
6403.91.60	4.5%	3.9%	3.4%	2.8%	2.2%	1.7%	1.1%	0.5%	Free
6403.91.90	3%	2%	1%	Free	Free	Free	Free	Free	Free
6403.99.20	2.4%	1.6%	0.8%	Free	Free	Free	Free	Free	Free
6403.99.40	1.5%	1%	0.5%	Free	Free	Free	Free	Free	Free
6403.99.60	2.5%	1.7%	0.8%	Free	Free	Free	Free	Free	Free
6403.99.75	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free
6403.99.90	3%	2%	1%	Free	Free	Free	Free	Free	Free
6404.11.20	3.1%	2.1%	1%	Free	Free	Free	Free	Free	Free
6404.11.50	25.6%	25.6%	19.2%	16%	12.8%	9.6%	6.4%	3.2%	Free
6404.11.60	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
6404.11.70	48¢/pr. + 20%	42¢/pr. + 17.5%	36¢/pr. + 15%	30¢/pr. + 12.5%	24¢/pr. + 10%	18¢/pr. + 7.5%	12¢/pr. + 5%	6¢/pr. + 2.5%	Free
6404.11.80	48¢/pr. + 10.6%	42¢/pr. + 9.3%	36¢/pr. + 8%	30¢/pr. + 6.6%	24¢/pr. + 5.3%	18¢/pr. + 4%	12¢/pr. + 2.6%	6¢/pr. + 1.3%	Free
6404.19.15	3.1%	2.1%	1%	Free	Free	Free	Free	Free	Free
6404.19.20	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
6404.19.25	2.2%	1.5%	0.7%	Free	Free	Free	Free	Free	Free
6404.19.30	3.7%	2.5%	1.2%	Free	Free	Free	Free	Free	Free
6404.19.35	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
6404.19.50	25.6%	22.4%	19.2%	16%	12.8%	9.6%	6.4%	3.2%	Free
6404.19.60	11.2%	7.5%	3.7%	Free	Free	Free	Free	Free	Free
6404.19.70	48¢/pr. + 20%	42¢/pr. + 17.5%	36¢/pr. + 15%	30¢/pr. + 12.5%	24¢/pr. + 10%	18¢/pr. + 7.5%	12¢/pr. + 5%	6¢/pr. + 2.5%	Free
6404.19.80	27¢/pr. + 6%	18¢/pr. + 4%	9¢/pr. + 2%	Free	Free	Free	Free	Free	Free
6404.20.20	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free
6404.20.40	3%	2%	1%	Free	Free	Free	Free	Free	Free
6404.20.60	11.2%	7.5%	3.7%	Free	Free	Free	Free	Free	Free
6405.10.00	3%	2%	1%	Free	Free	Free	Free	Free	Free
6405.20.30	2.2%	1.5%	0.7%	Free	Free	Free	Free	Free	Free
6405.20.90	3.7%	2.5%	1.2%	Free	Free	Free	Free	Free	Free
6405.90.90	3.7%	2.5%	1.2%	Free	Free	Free	Free	Free	Free
6406.10.05	2.5%	1.7%	0.8%	Free	Free	Free	Free	Free	Free
6406.10.10	3%	2%	1%	Free	Free	Free	Free	Free	Free
6406.10.20	3.1%	2.1%	1%	Free	Free	Free	Free	Free	Free
6406.10.45	1.8%	1.2%	0.6%	Free	Free	Free	Free	Free	Free

[FR Doc. 00–25693
Filed 10–3–00; 11:03 am]
Billing code 3190–01–C

Reader Aids

Federal Register

Vol. 65, No. 193

Wednesday, October 4, 2000

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FEDERAL REGISTER PAGES AND DATE, OCTOBER

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT OCTOBER 4, 2000

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Veterans education—

Montgomery GI Bill-Selected Reserve; rates payable increase; published 10–4–00

TRANSPORTATION DEPARTMENT

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Vocational rehabilitation and education:

Veteran education—

Montgomery GI Bill-Selected Reserve; rates payable increase; published 10-4-00

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Transportation Equity Act for 21st Century; implementation:

Motor vehicle operation by intoxicated persons; published 10-4-00

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Transportation Equity Act for 21st Century; implementation:

Motor vehicle operation by intoxicated persons; published 10-4-00

VETERANS AFFAIRS DEPARTMENT

Vocational rehabilitation and education:

Veteran education—

Montgomery GI Bill-Selected Reserve; rates payable increase; published 10-4-00

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Reformulated and conventional gasoline; anti-dumping program; alternative compliance periods establishment; comments due by 10-10-00; published 9-8-00

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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H.J. Res. 109/P.L. 106–275
Making continuing appropriations for the fiscal year 2001, and for other purposes. (Sept. 29, 2000; 114 Stat. 808)

S. 1638/P.L. 106–276
To amend the Omnibus Crime Control and Safe Streets Act of 1968 to extend the retroactive eligibility dates for financial assistance for higher education for spouses and dependent children of Federal, State, and local law enforcement officers who are killed in the line of duty. (Oct. 2, 2000; 114 Stat. 812)

S. 2460/P.L. 106–277
To authorize the payment of rewards to individuals furnishing information relating to persons subject to indictment for serious violations of international humanitarian law in Rwanda, and for other purposes. (Oct. 2, 2000; 114 Stat. 813)

Last List September 28, 2000

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