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RESERVATIONS: 202–523–4538

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 273 and 276

[Amendment No. 381]

RIN 0584–AC41

Food Stamp Program: Non-Discretionary Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule finalizes a proposed rule published July 12, 1999, by amending the Food Stamp Program Regulations to implement certain non-discretionary provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) that affect the Food Stamp Program. The regulatory changes include changes in the minimum and maximum allotments, the standard and shelter deductions, household composition, the fair market value of vehicles, the definition of homeless, and expedited service. In accordance with the proposal, this rule also incorporates, where possible, the principles of the President's Regulatory Reform Initiative and removes overly prescriptive, outdated, and redundant provisions, and increases State agency flexibility.

DATES:

Effective Date: This final rule is effective December 29, 2000.

Implementation Dates:

1. The following amendments were to be implemented August 22, 1996: The definition of ''Homeless individual'' in § 271.2, § 273.1(b)(1)(ii), § 273.2(i)(3)(i) and (i)(3)(ii).

2. The amendments to § 273.8(f)(1) and § 273.10(e)(4)(ii) were to be implemented October 1, 1996.

3. The amendment to § 273.9(d)(8) was to be implemented January 1, 1997.

4. The amendments to § 273.1(b)(1)(iii) and § 273.8(e)(3)(i)(A), are to be implemented no later than March 1, 2001.

5. All remaining amendments are to be implemented no later than January 1, 2001.

FOR FURTHER INFORMATION CONTACT: Margaret Werts Batko, Certification Policy Branch, Program Development Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302, (703) 305–2520, or e-mail at Margaret.Batko@fns.usda.gov. A regulatory impact analysis has been prepared for this rule. You may request a copy of the analysis by contacting us at the above address.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be economically significant under Executive Order 12866, and major under Pub. L. 104–121, and has, therefore, been reviewed by the Office of Management and Budget (OMB).

Executive Order 13132

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. FNS has considered the impact on State agencies. This rule deals almost entirely with changes required by law, and implemented by law in 1996. The changes primarily affect food stamp recipients. The effects on State agencies are minimal and, to the extent that they affect them, relieve them of administrative burdens. This rule is intended to have preemptive effect on any State law that conflicts with its provisions or that would otherwise impede its full implementation. PRWORA required all but one of the changes made in this rule, and made most of them effective on enactment and all of them effective by the beginning of FY 1997. FNS is not aware of any case where the one discretionary provision of the rule would preempt State law.

Prior Consultation With State Officials

Before drafting this rule, we received input from State agencies at various times. Because the FSP is a State administered, federally funded program, our regional offices have formal and informal discussions with State and local officials on an ongoing basis. These discussions involve implementation and policy issues. This arrangement allows State agencies to provide feedback that forms the basis for many discretionary decisions in this and other FSP rules. In addition, FNS officials attend regional, national, and professional conferences to discuss issues and receive feedback from State officials at all levels. Lastly, the comments on the proposed rule from State officials were carefully considered in drafting 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 Program. Participants will be affected to the extent that their benefits will not increase at the rate they would have under the old law.

Paperwork Reduction Act

This proposed rule does not contain reporting or record keeping requirements subject to approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies that conflict with its provisions or that would otherwise impede its full implementation. This final rule is not intended to have retroactive effect unless so specified in the ''Dates'' paragraph of this rule. 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 the administrative procedures are as follows: (1) For Program benefit recipients—State administrative procedures issued pursuant to 7 U.S.C. 2020(e)(1) 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 Part 283 (for rules related to QC liabilities); (3) for retailers and wholesalers—administrative procedures issued under 7 U.S.C. 2023 set out at 7 CFR 278.8 and Part 279.

Unfunded Mandate Analysis

Title II of the Unfunded Mandate 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 Department 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 the Department 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) that impose costs on State, local, or tribal governments or to 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.

Regulatory Impact Analysis

Need for Action

This action is needed to implement several provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193. This rule removes the exception in current rules that allows persons age 21 and under who are themselves parents or married, and who live with a parent, to participate in the Food Stamp Program as a separate household; changes the way the maximum allotments are calculated by using 100% of the Thrifty Food Plan instead of 103%; alters the definition of homeless by setting a time limit (where there was none before) on people whose primary nighttime residence is a temporary accommodation in the home of another; freezes the standard deduction in food stamps for fiscal year 1997 and beyond at $134; retains a cap on the excess shelter expense deduction; freezes the fair market value of vehicle exemption at $4,650; freezes the minimum allotment at $10 a month; increases the number of days which States have to provide expedited service from 5 to 7 calendar days; eliminates households consisting entirely of homeless people from those categories of households entitled to receive expedited service; and removes the State agency option to exclude from unearned income up to $50 monthly of title IV–D child support payments.

Effects on Administering Agencies

State food stamp offices are affected to the extent that they must implement the provisions described in this action. However, State agencies are not expected to change their personnel due to these changes, so State agencies are expected to incur minimal costs.

Costs

The final rule does not make any economically significant changes to the proposed rule. However, food stamp participation has decreased more than expected since we published the proposed rule. Current estimates of participation are about 20 percent less than previous estimates. Accordingly, total savings in food stamps issued from this rule for the 5 years from fiscal year 1998 to 2002 are $9,039 million—down from the previous estimate of $11,195 million.

Plain Language

We have written this final rule under the plain language guidelines to make it easier to read and clearer. We have edited wording that we preserved from the proposed rule to conform to those guidelines, using simpler words and phrases where appropriate, and changing sentences from passive to active voice. We did not change the meaning of any of the language brought from the proposed rule.

Background

The President signed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193 (PRWORA) on August 22, 1996. PRWORA contained several provisions that amended the Food Stamp Act of 1977 (the Act), 7 U.S.C. 2011, *et seq.*, but allowed us (the Food and Nutrition Service of the Department of Agriculture) no discretion in implementing them. We published proposed rules on July 12, 1999, in the **Federal Register** at 64 FR 37454 to implement those provisions. The provisions:

- Require that a person 21 years old or younger who lives with a parent be considered part of the parent's household, even if married and living with a spouse, living with a child, or both;
- Set the maximum allotment at 100% of the Thrifty Food Plan, rather than at 103%;
- Allow a person living in another person's house to be considered homeless for only 90 days;
- Freeze the standard deduction at $134;
- Retain the cap on the excess shelter expense deduction;
- Freeze the exemption of the fair market value of a vehicle as a household asset at $4,650;
- Freeze the minimum allotment for 1- and 2-person households at $10;
- Increase from 5 to 7 the number of days State agencies have to provide expedited service;
- Eliminate households consisting entirely of homeless persons from the kinds of households automatically allowed to receive expedited service; and
- Remove the State agency option to exclude up to $50 a month of the title IV–D child support payments from unearned income.

The period for comment on the proposed rules ended September 10, 1999. We received comments on the proposed rules from ten State agencies and an advocacy group. (In addition, the Acting General Counsel of a State agency commented on our failure to treat a number of discretionary provisions of PRWORA in this rulemaking. Those provisions will be covered in other rules that are currently in clearance or which have recently been published. We will not deal with them here.) In analyzing the comments received, we will not address comments on provisions that are required by the law and on which we have no discretion. A number of comments supported our proposals. We will not discuss those in detail here, either. Finally, a number of the comments concerned technical corrections for inadvertent omissions. We have made the corrections where appropriate, but will not discuss the comments. For a full understanding of the background of the provisions in this rule see the proposed rulemaking. In response to those comments that need discussion, and for ease of reading, we will discuss each provision touched on by those comments, and the comments, in the order in which they appear in the Code of Federal Regulations.

Definition of Parental Control: Although not contemplated by

PRWORA, to provide the same treatment for a child living with a non-parent adult that is provided for a child living with a natural or adoptive parent or stepparent, we proposed to change the definition of parental control, amending 7 CFR 273.1 by removing the exception that a child who is living with his or her own child(ren) or spouse is not considered to be under parental control. A State agency commented that under its State law a married person under 18 has attained majority and no other person is responsible for that person. We have amended the language of the final rule to accommodate such a situation. Another State agency noted our removal of the exception, and stated its understanding that it could choose to retain the old policy if it applied it consistently across the State. This is incorrect. Our view is that a child who is under parental control must be a member of the household that exercises parental control, even if the child has children of his or her own. However, State agencies will have substantial authority to determine parental control.

Reorganization of 7 CFR 273.1—Household Concept: In the spirit of the President's Regulatory Reform Initiative, we proposed to reorganize § 273.1 (which deals with the important programmatic concept of ''household''), with the exception of 7 CFR 273.1(d) and (f), which we left unchanged. We did not propose significant changes to § 273.1, as nearly every provision is set forth in the Act and can be changed only through legislative action. However, we condensed several sections into a single section, removing unnecessary language and provisions covered elsewhere in the regulations, and providing State agency flexibility where possible. The proposed rule set out the entire suggested revised text for the convenience of the reader.

Boarders: To ensure uniformity among all States, we proposed to retain in new paragraph (b)(3) the language appearing in 7 CFR 273.1(c)(1), which defines a boarder. Whether a person is considered to be a boarder, and whether, if deemed a boarder, a person may participate in the Food Stamp Program, is in part determined by whether the person pays reasonable compensation for lodging and meals. A State agency, in its comments, asked why not, in the interest of State flexibility, allow States to define what constitutes ''reasonable'' compensation. However, the State agency did not give any further reason to change the existing regulation, and another State agency noted that it had no objection to the purely cosmetic change to the provision. This provision as written is easy to administer, equitable to clients, and adaptable to each State's automated certification system. Moreover, it has not been a problem for State agencies or clients in the past. For these reasons, and because the Thrifty Food Plan base is a practicable way to determine whether a person is paying reasonable compensation in order to decide boarder status, and was previously subject to public comments, we do not think the definition should be changed based on a single comment in this rule.

An advocate organization commented that we should make it clear that the definition of a commercial boarding house does not include group homes for disabled, homeless shelters, or other such entities that may be licensed under the same State laws as commercial boarding houses. Group homes for disabled (group living arrangements), for example, are defined in 7 CFR 271.2 as public or private nonprofit entities, and proposed 7 CFR 273.1(b)(7)(vii)(E) specified public or private nonprofit homeless shelters. We have modified the language of the rule to make it clear that the entities excepted from the rule barring residents of institutions must not be confused with commercial boarding houses.

When we combined 7 CFR 273.1(a)(2), (b), (c)(1), (c)(3), and (e) in new paragraph (b), we eliminated 7 CFR 273.1(c) of current regulations. We added a new paragraph (c). There has been some confusion among State agencies as to when the policy on ''purchasing food and preparing meals'' overrides policy prohibiting the separation of spouses and children, or prohibiting the participation of boarders. The new paragraph (c) specifically allows State agencies to apply discretion when the rule does not lend itself to a simple and direct answer to certain living situations. We cannot cover all living situations by regulation. We intend that State agencies use prudent judgment in determining when to allow individuals to be certified as separate households from others with whom they reside and to protect Program integrity by not allowing great numbers of households to fragment into smaller households. The language also states that any State policy adopted under this provision must be applied consistently throughout the State.

A State agency commented that the ''Administrative Procedures Act'' requires it to develop rules for any options allowed by Food Stamp Program regulations (we presume the State agency was referring to its own State Administrative Procedures Act, since States are not subject to the Federal Administrative Procedure Act, 5 U.S.C. 500, *et seq.*). It added that if USDA cannot cover all living situations by regulations, a State agency cannot be expected to do so and ensure that they are handled consistently throughout the State. We recognize that it may be difficult for States to spell out clear policies in this area and ensure that they are applied across the State, but we are reluctant to impose such exacting rules that States cannot adapt the rules to local situations. We have, however, added the words ''fairly'' and ''equitably'' to the rule to ensure that a State agency's policy must be not only consistent, but also fair. Moreover, we stand ready to work with State agencies on a case-by-case basis to determine whether individual cases fit a pattern that should be applied across the State, or are unique cases.

Strikers. We did not propose any changes in 7 CFR 273.1(d), Head of Household, and (f), Authorized Representative, because we believe the current regulations are appropriate. We have redesignated the requirements in current regulations at 7 CFR 273.1(g) for determining the eligibility and benefits of households containing members on strike as paragraph (e), with minor editorial changes for clarity. We received no comments on our decisions with regard to these provisions.

Application Processing—7 CFR 273.2

Expedited Service: Current regulations at 7 CFR 273.2(i) provide for expedited service to certain categories of households with very low income and resources, including households in which all members are homeless. Prior to PRWORA, section 11(e)(9) of the Act (7 U.S.C. 2020(e)(9)) required that benefits be provided not later than five calendar days following a household's date of application for all eligible households that were also eligible for expedited service. Section 838 of PRWORA amended section 11(e)(9) of the Act by increasing the time that States may take to provide expedited service from five to seven calendar days, and eliminating households consisting entirely of homeless people from those categories of households entitled to receive expedited service. We received no comments on the proposal to implement these changes, as outlined in the proposed rule.

Accordingly, consistent with our proposals, this rule amends 7 CFR 273.2(i)(3)(i) by striking ''fifth'' calendar day and inserting ''seventh''. This rule also amends 7 CFR 273.2(i)(3)(ii) by striking ''5 calendar days'' and inserting ''7 calendar days''. In addition, the rule removes 7 CFR 273.2(i)(1)(iii) which provides that households in which all

members are homeless individuals are entitled to expedited service and redesignates (i)(1)(iv) as (i)(1)(iii). Homeless individuals may continue to qualify for expedited service under the financial criteria set forth in 7 CFR 273.2(i).

Resource Eligibility Standards—7 CFR 273.8

Fair Market Value: Section 810 of PRWORA amended section 5(g) of the Act (7 U.S.C. 2014(g)) to provide that any licensed vehicle that is not subject to other exclusions and is used for household transportation or to obtain or continue employment, to the extent that the fair market value of the vehicle exceeds $4,600 through September 30, 1996, and $4,650 beginning October 1, 1996, must be included in financial resources. Section 810 also freezes the fair market value exclusion limit used in determining the countable value of the included vehicle at $4,650. Accordingly, this rule amends 7 CFR 273.8 to include the new resource exclusion level, which was implemented October 1, 1996.

We proposed to modify the definition of a vehicle that can be excluded from a household's assets because it is used for income-producing purposes in the current rules at 7 CFR 273.8(h)(1)(i) (redesignated 273.8(e)(3)(i)(A)). Examples of such vehicles would be a car used for a job as a delivery person, a motor vehicle used by a courier, a car used by a household member to call on clients or customers, even though the vehicle is not used for long-distance travel, or any vehicle used to perform a job that was advertised as requiring a personally-owned motor vehicle. The current rule requires that the vehicle be used *primarily* for producing income. We proposed to remove the word ''primarily'' to ensure that State agencies would not have to verify the relative amount of mileage traveled for income-producing purposes. Two State agencies commented that our proposal did not go far enough. They proposed that we exclude any vehicle used to go to work. Section 5(g)(1)(C) of the Act does not allow us to change the rules to that extent. Specifically, it excludes from a household's financial resources a vehicle ''used to produce earned income.'' This language allows us to make the change we proposed, since a vehicle used for deliveries is clearly being used to produce earned income. We do not believe that a reasonable view of the clear language of the Act allows us to exclude all vehicles used to commute to work. Accordingly, this rule amends 7 CFR 273.8 to remove the requirement that a vehicle used for income-producing purposes be used *primarily* for those purposes in order to be excluded from a household's assets.

A State agency commented that the language on vehicles necessary to transport a physically disabled household member at § 273.8(e)(3)(i)(E) seems somewhat contradictory because it talks about special vehicles and specially equipped vehicles being considered necessary, but then goes on to state that the vehicle need not have special equipment. We agree. We have removed the examples and have simplified the provision, relying on the basic statement that a vehicle necessary to transport a physically disabled household member is excluded.

Reorganization of 7 CFR 273.8

In the proposed rule, we took the opportunity to reorganize 7 CFR 273.8 and to remove redundant or unnecessary language. Section 5(g)(2) of the Act requires that the Secretary prescribe inclusions in, and exclusions from, financial resources following the regulations in force as of June 1, 1982. The law provides an exception for the regulations governing vehicles and inaccessible resources. All other resource inclusion and exclusion provisions described in the regulations as of June 1, 1982, became law by reference and can only be changed through legislative action. Nonetheless, there were some provisions we were able to change and some areas where we could remove redundant or unnecessary language. This rule revises 7 CFR 273.8(e), (g), (h), and (i), and removes (j).

We proposed to remove all the provisions from paragraph (h) and transfer some of them to (e) and the others to (g). We have taken the list of vehicles excluded from resource consideration currently contained in paragraphs (h)(1)(i)–(v) and (h)(2) and incorporated it into 7 CFR 273.8(e)(3). We rewrote the remaining provisions of paragraphs (h)(3), (h)(4) and (h)(5) concerning the treatment of non-excluded vehicles and combined them with the provisions in paragraph (g) to improve readability. As a result of transferring the text of paragraph (h), that paragraph no longer exists, and we have redesignated paragraph (i) as paragraph (h). We have made a conforming amendment to paragraphs (e)(16) and (e)(18) to note the relocation of the vehicle exclusion provisions. We also, in the proposed rule, removed the current 7 CFR 273.8(j), which provides that the resources of certain non-household members must be treated in accordance with 7 CFR 273.11. We believed the reference was unnecessary. After reviewing comments, and reconsidering the rule, we have decided to retain the reference as a useful guide to policy.

In keeping with the principles of the President's Regulatory Reform Initiative of increasing State flexibility, this rule removes the proscriptive regulations in paragraph (g) for determining the fair market value of a vehicle and allows State agencies to establish their own methodologies. However, to ensure client protection, we have decided to retain the prohibition against increasing the basic value of a vehicle because of low mileage, optional equipment, or special apparatus for the handicapped, as State variations may affect eligibility and costs.

We proposed also to revise paragraph (e)(11), which excludes from countable resources any resource that is specifically excluded by any other Federal statute and lists such excluded resources. We proposed to remove the specific list of resources excluded by other Federal laws. We periodically provide State agencies with a list of such excluded resources through agency memoranda because the list changes frequently and quickly becomes outdated. Doing this through the regulatory amendment process often results in incomplete or obsolete regulations, thereby causing confusion. We believe it is sufficient to have the regulation simply provide an exclusion for any resource specifically excluded by another Federal statute and to continue to notify State agencies through agency memoranda when such laws are enacted. We received no comments on this provision (other than one urging us to inform State agencies promptly in writing of all exclusions, which we currently do). Therefore, we are amending the rule accordingly.

Income and Deductions—7 CFR 273.9

Annual adjustments of gross and net income standards, and maximum allotments. FNS currently publishes Notices in the **Federal Register** every year to announce the amounts of the monthly gross and net income eligibility standards, and of the maximum allotments, for the contiguous 48 States and the District of Columbia, Alaska, Hawaii, Guam and the U.S. Virgin Islands. This process is cumbersome. The regulatory clearance process precludes publishing the numbers in time for State agencies to use them. Therefore, we send the numbers to the State agencies by memorandum—customarily in August, so the State agencies can program their computers in time for the new numbers to take effect on the October 1 deadline each year. We have started posting the new numbers on the FNS web site shortly after we

officially notify State agencies of them. This accomplishes the same thing as publishing Notices in the **Federal Register**. And it does it on time, and more economically. Therefore, we will no longer publish these numbers in **Federal Register** Notices. You can find them on our web site at www.fns.usda.gov/fsp. We are making a technical change to delete references to publication of these numbers in **Federal Register** Notices from our rules.

Income exclusions: Current regulations at 7 CFR 273.9(c)(1)(i) prescribe whether to exclude from income a number of kinds of public assistance (PA) vendor payments (payments made by a third party on behalf of a household). A commenter pointed out that a number of State agencies are now using Temporary Assistance for Needy Families (TANF) funds to supplement housing assistance from the Department of Housing and Urban Development (HUD), and are channeling those payments through State or local housing authorities. Section 5(k)(2)(D) of the Act, 7 U.S.C. 2014(k)(2)(D), requires us to exclude such payments from income. The commenter inferred that we had overlooked this requirement of the Act in a previous revision of the rules. Since the Act requires us to exclude this new category of TANF-funded vendor payments from income, we are making a technical correction to the rules at 7 CFR 273.9(c)(1)(i) to make this requirement clear. (We received the comment after the end of the comment period, but we believe it is important to correct the rule in any case.)

Standard Deduction: Current regulations at 7 CFR 273.9(d)(8) provide that, effective October 1, 1987, and each October 1 thereafter, the standard deduction from gross income must be adjusted to reflect changes in the CPI–U for items other than food for the twelve months ending the preceding June 30. Section 809 of PRWORA amended section 5(e) of the Act to provide that the Secretary must allow and maintain the standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States of $134, $229, $189, $269, and $118, respectively. In effect, PRWORA eliminated the annual adjustment to the various standard deductions. This rule amends the regulations at 7 CFR 273.9(d)(1) accordingly.

Excess Shelter Expense Deduction: Section 809 of PRWORA amended section 5(e) of the Act to change the excess shelter limit. Section 5(e), 7 U.S.C. 2014(e), now provides that a household is entitled to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed. In the case of a household that does not contain an elderly or disabled individual, in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam and the Virgin Islands of the United States, the excess shelter expense deduction must not exceed:

(i) For the period beginning on the date of enactment of the law and ending on December 31, 1996, $247, $429, $353, $300, and $182 per month, respectively;

(ii) For the period beginning on January 1, 1997, and ending on September 30, 1998, $250, $434, $357, $304, and $184 per month, respectively;

(iii) For fiscal years 1999 and 2000, $275, $478, $393, $334, and $203 per month, respectively; and

(iv) For fiscal year 2001 and each subsequent fiscal year, $300, $521, $429, $364, and $221 per month, respectively.

This final rule makes corresponding changes to the regulations at 7 CFR 273.9(d)(8).

Determining Household Eligibility and Benefit Levels—7 CFR 273.10

Maximum Allotments: Section 804 of PRWORA amended section 3(o) of the Act (7 U.S.C. 2012(o)) by providing that on October 1, 1996, and each October 1 thereafter, the Department must adjust the cost of the maximum allotment to reflect the cost of the Thrifty Food Plan in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1996, the Secretary was not allowed to reduce the cost of the maximum allotment in effect on September 30, 1996.

Accordingly, this final rule amends 7 CFR 273.10(e)(4)(ii) to provide that effective October 1, 1996, the maximum food stamp allotments must be based on 100% of the cost of the TFP, as defined in section 271.2, for the preceding June, rounded to the nearest lower dollar increment, except that on October 1, 1996, the allotments may not fall below those in effect on September 30, 1996.

In addition, we are removing 7 CFR 273.10(e)(4)(ii)(A) through (F), as these paragraphs, which provide for the adjustment of the TFP for the years 1983 through 1995, are outdated.

Conforming Amendments

Aid to Families with Dependent Children: Section 101 of PRWORA block granted this program to the States and renamed it the Temporary Assistance for Needy Families (TANF) program. Therefore, the terms ''Aid to Families With Dependent Children'' and its acronym, ''AFDC'', are obsolete. Section 109 of PRWORA made conforming amendments to the Act by replacing the obsolete terms with a reference to assistance under a State program funded under part A of title IV of the Social Security Act, the provision that authorizes TANF.

Accordingly, this rule amends Subchapter C by replacing the words ''Aid to Families with Dependent Children'' with ''Temporary Assistance for Needy Families'', by replacing ''AFDC'' with ''TANF'', and by replacing the words ''Aid to Families with Dependent Children (AFDC)'' with ''Temporary Assistance for Needy Families (TANF)''.

Child support payments: As required by section 5 of the Act prior to PRWORA, the current regulations at 7 CFR 273.9(c)(12) provide that the State agency has the option to exclude from unearned income up to $50 monthly of title IV–D child support payments in cases where such payments are received by the households from the title IV–D support agency responsible for collecting such child support payments on behalf of AFDC recipients. Section 109 of PRWORA amended section 5 of the Act by removing this exclusion. This rule removes 7 CFR 273.9(c)(12) and renumbers (c)(13) through (c)(17) accordingly.

As required by section 5 of the Act prior to PRWORA, current regulations at 7 CFR 276.2(e)(1) provide that the State agency must pay FNS for the increased dollar value of coupon allotments resulting from providing households with an income exclusion for child support payments as described in § 273.9(c)(12). Section 109 of PRWORA amended section 5 of the Act by removing the payback. Accordingly, this rule removes 7 CFR 276.2(e) in its entirety and removes the last two sentences of paragraph (2).

Implementation

As stated in the preamble to the proposed rules, we instructed State agencies through agency directive to implement the provisions of PRWORA without waiting for formal regulations. The amendments to the definition of ''Homeless individual'' in § 271.2, and the amendments to § 273.1(b)(1)(ii) and § 273.2(i)(3)(i) and (i)(3)(ii) were to be implemented August 22, 1996. The amendments to § 273.8(f)(1) and § 273.10(e)(4)(ii) were to be implemented October 1, 1996. The

amendment to § 273.9(d)(8) was to be implemented January 1, 1997. The remaining amendments in this rule, with two exceptions, must be implemented no later than January 1, 2001. The amendments to § 273.1(b)(1)(iii), and § 273.8(e)(3)(i)(A), must be implemented no later than March 1, 2001. After implementation, State agencies must adjust the cases of ongoing households at the next recertification, at household request, or when the case is next reviewed, whichever comes first. If implementation of the above Act or this rule is delayed, benefits must be restored, as appropriate, in accordance with the Food Stamp Act.

Quality Control. Variances resulting from implementation of the provisions of this final rule will be excluded from error analysis for 120 days from the required implementation date. State agencies that implement the provisions before the required implementation date must notify the appropriate FNS regional office before implementing that they wish the variance exclusion period to begin with the actual implementation, as provided in 7 CFR 275.12(d)(2)(vii)(A). The exclusionary period will begin with the required implementation date, if the State agency does not notify the appropriate regional office.

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs—social programs.

7 CFR Part 273

Administrative practice and procedures, Aliens, Claims, Food stamps, Fraud, Grant programs—social programs, Penalties, Reporting and record keeping requirements, Social Security, Students.

7 CFR Part 276

Administrative practice and procedure, Food stamps, Reporting and record keeping requirements.

Accordingly, 7 CFR chapter II, subchapter C, and parts 271, 273, and 276 are amended as follows:

SUBCHAPTER C—FOOD STAMP AND FOOD DISTRIBUTION PROGRAM

1. In Subchapter C:

a. Remove the words ''Aid to Families with Dependent Children'' wherever they appear and add the words ''Temporary Assistance for Needy Families'' in their place.

b. Remove the word ''AFDC'' wherever it appears and add ''TANF'' in its place.

c. Remove the words ''Aid to Families with Dependent Children (AFDC)'' wherever they appear, and add the words ''Temporary Assistance for Needy Families (TANF)'' in their place.

2. The authority citation for parts 271, 273, and 276 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

PART 271—GENERAL INFORMATION AND DEFINITIONS

§ 271.2 [Amended]

3. In § 271.2:

a. Amend paragraph (3) of the definition of ''Homeless individual'' by adding the words ''for not more than 90 days'' after the word ''accommodation''.

b. Amend the definition of ''Minimum benefit'' by removing all text after the word ''benefit'' in the second sentence and adding in its place ''shall be $10.''

c. Remove the definition of ''Spouse''.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

4. In § 272.1, add paragraph (g)(157) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(157) *Amendment No. 381.* The provisions of Amendment 381 are implemented as follows:

(i) The definition of ''Homeless individual'' in § 271.2, and the amendments to § 273.1(b)(1)(ii), § 273.2(i)(3)(i) and (i)(3)(ii) were to be implemented August 22, 1996;

(ii) The amendments to § 273.8(f)(1) and § 273.10(e)(4)(ii) were to be implemented October 1, 1996;

(iii) The amendment to § 273.9(d)(8) was to be implemented January 1, 1997;

(iv) The amendments to § 273.1(b)(1)(iii) and § 273.8(e)(3)(i)(A) must be implemented no later than March 1, 2001; and

(v) All remaining amendments must be implemented no later than January 1, 2001.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

5. In § 273.1, remove paragraph (g), and revise paragraphs (a), (b), (c) and (e) to read as follows:

§ 273.1 Household concept.

(a) *General household definition.* A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section:

(1) An individual living alone;

(2) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or

(3) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

(b) *Special household requirements.*—(1) *Required household combinations.* The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.

(i) Spouses;

(ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); and

(iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult.

(2) *Elderly and disabled persons.* Notwithstanding the provisions of paragraph (a) of this section, an otherwise eligible member of a household who is 60 years of age or older and is unable to purchase and prepare meals because he or she suffers from a disability considered permanent under the Social Security Act or a non disease-related, severe, permanent disability may be considered, together with his or her spouse (if living there), a separate household from the others with whom the individual lives. Separate household status under this provision must not be granted when the income of the others with whom the elderly disabled individual resides (excluding the income of the elderly and disabled individual and his or her spouse) exceeds 165 percent of the poverty line.

(3) *Boarders.* (i) Residents of a commercial boarding house, regardless of the number of residents, are not eligible to participate in the Program. A commercial boarding house is an establishment licensed to offer meals and lodging for compensation. It does not include any of the entities listed in paragraph (b)(7)(vii) of this section. In project areas without licensing requirements, a commercial boarding house is a commercial establishment that offers meals and lodging for compensation with the intent of making a profit.

(ii) All other individuals or groups of individuals paying a reasonable amount for meals or meals and lodging must be considered boarders and are not eligible to participate in the Program independently of the household providing the board. Such individuals or groups of individuals may participate, along with a spouse or children living with them, as members of the household providing the boarder services, only at the request of the household providing the boarder services. An individual paying less than a reasonable amount for board must not be considered a boarder but must be considered, along with a spouse or children living with him or her, as a member of the household providing the board.

(A) For individuals whose board arrangement is for more than two meals per day, ''reasonable compensation'' must be an amount that equals or exceeds the maximum food stamp allotment for the appropriate size of the boarder household.

(B) For individuals whose board arrangement is for two meals or less per day, ''reasonable compensation'' must be an amount that equals or exceeds two-thirds of the maximum food stamp allotment for the appropriate size of the boarder household.

(iii) Boarders must not be considered to be residents of an institution as outlined in paragraph (b)(7)(vii) of this section.

(4) *Foster care individuals.* Individuals placed in the home of relatives or other individuals or families by a Federal, State, or local governmental foster care program must be considered to be boarders. They cannot participate in the Program independently of the household providing the foster care services. Such foster care individuals may participate, along with a spouse or children living with them, as members of the household providing the foster care services, only at the request of the household providing the foster care.

(5) *Roomers.* Individuals to whom a household furnishes lodging for compensation, but not meals, may participate as separate households. Persons described in paragraph (b)(1) of this section must not be considered roomers.

(6) *Live-in attendants.* A live-in attendant may participate as a separate household. Persons described in paragraph (b)(1) of this section must not be considered live-in attendants.

(7) Ineligible household members. The following persons are not eligible to participate as separate households or as a member of any household:

(i) Ineligible aliens and students as specified in § 273.4 and § 273.5, respectively;

(ii) SSI recipients in ''cash-out'' States as specified in § 273.20;

(iii) Individuals disqualified for noncompliance with the work requirements of § 273.7;

(iv) Individuals against whom a sanction was imposed for failure to comply with a workfare requirement as specified in § 273.22;

(v) Individuals disqualified for failure to provide an SSN as specified in § 273.6;

(vi) Individuals disqualified for an intentional Program violation as specified in § 273.16; and

(vii) Residents of an institution, with some exceptions. Individuals must be considered residents of an institution when the institution provides them with the majority of their meals (over 50 percent of three meals daily) as part of the institution's normal services. Exceptions to this requirement include only the individuals listed in paragraphs (b)(7)(vii)(A) through (b)(7)(vii)(E) of this section. The individuals listed in paragraphs (b)(7)(vii)(A) through (b)(7)(vii)(E) can participate in the Program and must be treated as separate households from the others with whom they reside, subject to the mandatory household combination requirements of paragraph (b)(1) of this section, unless otherwise stated:

(A) Individuals who are residents of federally subsidized housing for the elderly;

(B) Individuals who are narcotic addicts or alcoholics and reside at a facility or treatment center for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program. This includes the children but not the spouses of such persons who live with them at the treatment center or facility;

(C) Individuals who are disabled or blind and are residents of group living arrangements;

(D) Individual women or women with their children who are temporarily residing in a shelter for battered women and children; and

(E) Individuals who are residents of public or private nonprofit shelters for homeless persons.

(c) *Unregulated situations.* For situations that are not clearly addressed by the provisions of paragraphs (a) and (b) of this section, the State agency may apply its own policy for determining when an individual is a separate household or a member of another household if the policy is applied fairly, equitably and consistently throughout the State.

* * * * *

(e) *Strikers.* Households with a striking member are not eligible to participate in the Program, unless the household was eligible for benefits the day before the strike and is otherwise eligible at the time of application. A striker must be anyone involved in a strike or concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. Any employee affected by a lockout, however, must not be deemed to be a striker. Further, an individual who goes on strike but is exempt from work registration under § 273.7(b) the day before the strike, other than those exempt solely on the grounds that they are employed, must not be deemed to be a striker. Also, persons such as truck drivers who cannot do their jobs because the strike has left them with nothing to deliver, and employees who are not part of the bargaining unit and do not want to cross the picket line for fear of personal injury or death, must not be deemed to be strikers.

(1) Pre-strike eligibility must be determined by considering the day prior to the strike as the day of application and assuming the strike did not occur.

(2) Eligibility at the time of application must be determined by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two to the current income of non-striking members during the month of application. If the household is eligible, the higher income figure must also be used in determining the household's benefits.

* * * * *

§ 273.2 [Amended]

6. In § 273.2:

a. Remove paragraph (i)(1)(iii).

b. Redesignate paragraph (i)(1) (iv) as paragraph (i)(1)(iii).

c. Amend paragraph (i)(3)(i) by removing the word ''fifth'' wherever it appears and adding the word ''seventh'' in its place.

d. Amend paragraph (i)(3)(ii) by removing the words ''5 calendar days'' and adding the words ''7 calendar days'' in its place.

§ 273.8 [Amended]

7. In § 273.8:

a. Amend paragraph (c)(2) by removing the regulatory reference to ''paragraph (h)'' and adding in its place a regulatory reference to ''paragraph (f)''.

b. Revise paragraph (e)(3).

c. Amend paragraph (e)(11) by removing the second sentence of the introductory text and by removing paragraphs (e)(11)(i) through (e)(11)(ix).

d. Amend paragraph (e)(16) by removing the regulatory reference to ''paragraphs (h)(1)(i), (h)(1)(ii) or (h)(1)(v)'' and adding in its place the regulatory reference to ''paragraphs (e)(3)(i)(A), (e)(3)(i)(B) or (e)(3)(i)(C)'', respectively.

e. Amend paragraph (e)(18) by removing the regulatory reference to ''paragraph (h)'' and adding in its place a regulatory reference to ''paragraph (f)''.

f. Redesignate paragraphs (g) and (f) as paragraphs (f) and (g), respectively, and revise newly redesignated paragraph (f).

g. Remove paragraph (h) and redesignate paragraphs (i) and (j) as paragraphs (h) and (i) and revise newly redesignated paragraph (i).

The revisions read as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(e) *Exclusions from resources.* * * *

(3)(i) Licensed vehicles that meet the following conditions:

(A) Used for income-producing purposes such as, but not limited to, a taxi, truck, or fishing boat, or a vehicle used for deliveries, to call on clients or customers, or required by the terms of employment. Licensed vehicles that have previously been used by a self-employed household member engaged in farming but are no longer used in farming because the household member has terminated his/her self-employment from farming must continue to be excluded as a resource for one year from the date the household member terminated his/her self-employment farming;

(B) Annually producing income consistent with its fair market value, even if used only on a seasonal basis;

(C) Necessary for long-distance travel, other than daily commuting, that is essential to the employment of a household member (or ineligible alien or disqualified person whose resources are being considered available to the household)—for example, the vehicle of a traveling sales person or a migrant farm worker following the work stream;

(D) Used as the household's home and, therefore, excluded under paragraph (e)(1) of this section;

(E) Necessary to transport a physically disabled household member (or physically disabled ineligible alien or physically disabled disqualified person whose resources are being considered available to the household) regardless of the purpose of such transportation (limited to one vehicle per physically disabled household member). The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member; or

(F) Necessary to carry fuel for heating or water for home use when the transported fuel or water is anticipated to be the primary source of fuel or water for the household during the certification period. Households must receive this resource exclusion without having to meet any additional tests concerning the nature, capabilities, or other uses of the vehicle. Households must not be required to furnish documentation, as mandated by § 273.2(f)(4), unless the exclusion of the vehicle is questionable. If the basis for exclusion of the vehicle is questionable, the State agency may require documentation from the household, in accordance with § 273.2(f)(4).

(ii) On those Indian reservations that do not require vehicles driven by tribal members to be licensed, such vehicles must be treated as licensed vehicles for the purpose of this exclusion.

(iii) The exclusions in paragraphs (e)(3)(i)(A) through (e)(3)(i)(C) of this section will apply when the vehicle is not in use because of temporary unemployment, such as when a taxi driver is ill and cannot work, or when a fishing boat is frozen in and cannot be used.

* * * * *

(f) *Determining the value of non-excluded vehicles.* (1) The State agency must:

(i) Individually evaluate the fair market value of each licensed vehicle that is not excluded under paragraph (e)(3) of this section;

(ii) Count in full toward the household's resource level, regardless of any encumbrances on the vehicle, that portion of the fair market value that exceeds $4,650 beginning October 1, 1996;

(iii) Evaluate such licensed vehicles as well as all unlicensed vehicles for their equity value (fair market value less encumbrances), unless specifically exempt from the equity value test; and

(iv) Count as a resource only the greater of the two amounts if the vehicle has a countable fair market value of more than $4,650 after October 1, 1996, and also has a countable equity value.

(2) Only the following vehicles are exempt from the equity value test outlined in paragraph (f)(1)(iii) of this section:

(i) Vehicles excluded under paragraph (e)(3)(i) of this section;

(ii) One licensed vehicle per household; and

(iii) Any other vehicle used to transport household members (or an ineligible alien or disqualified household member whose resources are considered available to the household) to and from employment (including times during temporary periods of unemployment), or to and from training or education that is preparatory to employment, or to seek employment in compliance with the employment and training criteria specified in § 273.7.

(3) State agencies will be responsible for establishing methodologies for determining the fair market value of vehicles. In establishing such methodologies, the State agency must not increase the basic value of a vehicle by adding the value of low mileage or other factors such as optional equipment or special apparatus for the handicapped. Any household that claims that the State agency's determination of the value of its vehicle(s) is not accurate must be given the opportunity to acquire verification of the true value of the vehicle from a reliable source.

* * * * *

(i) Resources of non-household members.

(1) The resources of non-household members, as defined in § 273.1(b)(7)(i) and (ii), must be handled as outlined in § 273.11(d).

(2) The resources of non-household members, as defined in § 273.1(b)(7)(iii) through (vi), must be handled as outlined in § 273.11(c) and (d), as appropriate.

8. In § 273.9:

a. Revise paragraph (a)(4).

b. Redesignate paragraph (c)(1)(i)(F) as paragraph (c)(1)(i)(G), and add a new paragraph (c)(1)(i)(F).

c. Remove paragraph (c)(12) and redesignate paragraphs (c)(13), (c)(14), (c)(15), (c)(16) and (c)(17) as paragraphs (c)(12), (c)(13), (c)(14), (c)(15) and (c)(16) respectively.

d. Revise paragraph (d)(1), remove paragraph (d)(8), and redesignate paragraph (d)(9) as paragraph (d)(8).

e. Revise newly redesignated paragraph (d)(8).

The revisions and addition read as follows:

§ 273.9 Income and deductions.

(a) * * *

(4) The monthly gross and net income eligibility standards for all areas will be prescribed in tables posted on the FNS web site, at www.fns.usda.gov/fsp.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(F) Housing assistance payments made through a State or local housing authority;

* * * * *

(d) * * *

(1) *Standard deduction.* Effective October 1, 1996, for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam and the Virgin Islands of the United States, the standard deduction must be $134, $229, $189, $269, and $118, respectively.

* * * * *

(8) *Adjustment of shelter deduction.* In the case of a household that does not contain an elderly or disabled individual, in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam and the Virgin Islands of the United States, the excess shelter expense deduction must not exceed:

(i) For the period beginning August 22, 1996, and ending on December 31, 1996, $247, $429, $353, $300, and $182 per month, respectively;

(ii) For the period beginning on January 1, 1997, and ending on September 30, 1998, $250, $434, $357, $304, and $184 per month, respectively;

(iii) For the period beginning on October 1, 1998, and ending on September 30, 2000, $275, $478, $393, $334, and $203 per month, respectively; and

(iv) For the period beginning on October 1, 2000, and thereafter, $300, $521, $429, $364, and $221 per month, respectively.

* * * * *

9. In § 273.10:

a. Amend the last sentence of paragraph (e)(4)(i) by removing the words ''a General Notice published in the **Federal Register**'' and adding in their place the words ''a table posted on the FNS web site, at www.fns.usda.gov/fsp.''

b. Revise paragraph (e)(4)(ii) to read as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

(e) * * *

(4) * * *

(ii) *Adjustment.* Effective October 1, 1996, the maximum food stamp allotments must be based on 100% of the cost of the TFP as defined in § 271.2 of this chapter for the preceding June, rounded to the nearest lower dollar increment, except that on October 1, 1996, the allotments may not fall below those in effect on September 30, 1996.

* * * * *

§ 276.2 [Amended]

10. Remove the last two sentences of paragraph (a) and paragraph (e) in its entirety in § 276.2.

Dated: October 13, 2000.

Shirley R. Watkins,

Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 00–27483 Filed 10–27–00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 723

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AF86

2000 Marketing Quotas and Price Support Levels for Fire-Cured (Type 21), Fire-Cured (Types 22–23), Dark Air-Cured (Types 35–36), Virginia Sun-Cured (Type 37), and Cigar-Filler and Binder (Types 42–44 and 53–55) Tobacco

AGENCIES: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to codify the national marketing quotas and price support levels for the 2000 crops for several kinds of tobacco announced by press release on March 1, 2000.

Quotas are necessary to adjust the production levels of certain tobaccos to more fully reflect supply and demand conditions, as provided in the 1938 Act.

EFFECTIVE DATE: March 1, 2000.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Tobacco and Peanuts Division, FSA, USDA, STOP 0514, 1400 Independence Avenue, SW, Washington, DC 20250–0514, telephone 202–720–5346, e-mail address Robert Tarczy@wdc.fsa.usda. Copies of the cost-benefit assessment prepared for this rule can be obtained from Mr. Tarczy.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant and was reviewed by OMB under Executive Order 12866.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, are Commodity Loans and Purchases—10.051.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since neither the Farm Service Agency (FSA) nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject of these determinations.

Paperwork Reduction Act

The amendments to 7 CFR parts 723 and 1464 set forth in this final rule do not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35.

Unfunded Federal Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Statutory Background

This final rule is issued pursuant to the provisions of the 1938 Act and the 1949 Act.

In accordance with section 312 of the 1938 Act, for tobaccos other than flue-cured tobacco and burley tobacco, the Secretary of Agriculture is required to proclaim not later than March 1 of any marketing year (MY) a national marketing quota for those tobaccos for which marketing quotas have been approved in the prior 3 years. A referendum on quotas for each kind is held every 3 years.

On March 1, 2000, the Secretary determined and announced the national marketing quotas and price support levels for the 2000 crops of fire-cured (type 21), fire-cured (types 22–23), dark air-cured (types 35–36), Virginia sun-cured (type 37), and cigar-filler and binder (types 42–44 and 53–55) tobaccos. A number of related determinations were made at the same time which this final rule affirms. And, because the 1999 MY was the last of 3 consecutive years of quota for fire-cured (types 22–23) and dark air-cured (types

35–36) tobacco, the Secretary also announced that referenda would be conducted by mail with respect to those tobaccos.

During the period March 20–24, 2000, eligible producers of fire-cured (types 21–23) and dark air-cured (types 35–36) tobaccos voted in separate referenda to determine whether such producers approved marketing quotas for the 2000, 2001, and 2002 MYs for these tobaccos. Of the producers voting, 92.0 percent favored marketing quotas for fire-cured (types 21–23) tobacco and 90.4 percent favored quotas for dark air-cured (types 35–36) tobaccos. Accordingly, quotas and price support for both fire-cured (types 21–23) and dark air-cured (types 35–36) tobaccos are in effect for the 2000 though 2002 MYs.

Quotas for the other tobaccos covered by this notice were approved in referenda and are still in effect.

Under the 1949 Act, price support is required to be made available for each crop of a kind of tobacco for which marketing quotas are in effect or for which marketing quotas have not been disapproved by producers. With respect to the 2000 crops of the kinds of tobacco that are the subject of this notice, the respective maximum levels of price support for these kinds of tobacco is determined in accordance with section 106 of the 1949 Act. Announcement of the price support levels for these five kinds of tobacco are normally made before the planting seasons. Under the provisions of Section 1108 (c), of Pub. L. 99–272, the price support level announcements do not require prior rulemaking. For the 2000 crops, the price support announcements were made on March 1, 2000, at the same time the quota announcements were made. Quota and price support determinations for burley and flue-cured tobacco are made separately and are the subject of separate notices.

Statutory Provisions

Section 312(b) of the 1938 Act provides, in part, that the national marketing quota for a kind of tobacco is the total quantity of that kind of tobacco that may be marketed such that a supply of such tobacco equal to its reserve supply level is made available during the MY.

Section 313(g) of the 1938 Act provides that the Secretary may convert the national marketing quota into a national acreage allotment for apportionment to individual farms. Since producers of these kinds of tobacco generally produce considerably less than their respective national acreage allotments allow, a larger quota is necessary to make available production equal to the reserve supply level. Further, under section 312(b) of the 1938 Act, the amount of the national marketing quota may, not later than the following March 1, be increased by not more than 20 percent over the straight formula amount if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restriction of marketings in adjusting the total supply to the reserve supply level.

Section 301(b)(14)(B) of the 1938 Act defines ''reserve supply level'' as the normal supply, plus 5 percent thereof, to ensure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. ''Normal supply'' is defined in section 301(b)(10)(B) of the 1938 Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic use and 65 percent of a normal year's exports as an allowance for a normal year's carryover.

Normal year's domestic consumption is defined in section 301(b)(11)(B) of the 1938 Act as the average quantity produced and consumed in the United States during the 10 MYs immediately preceding the MY in which such consumption is determined, adjusted for current trends in such consumption. Normal year's exports is defined in section 301(b)(12) of the 1938 Act as the average quantity produced in and exported from the United States during the 10 MYs immediately preceding the MY in which such exports are determined, adjusted for current trends in such exports.

Also, under section 313(g) of the 1938 Act, the Secretary is authorized to establish a national reserve from the national acreage allotment in an amount equivalent to not more than 1 percent of the national acreage allotment for the purpose of making corrections in farm acreage allotments, adjusting for inequities, and for establishing allotments for new farms. The Secretary has determined that the national reserve, noted herein, for the 1999 crop of each of these kinds of tobacco is adequate for these purposes.

Press Release

On February 14, 2000, a press release was issued in which interested persons were requested to comment with respect to setting quotas for the kinds of tobacco addressed in this rule.

Discussion of Comments Received From Press Release

Fifteen written responses were received during the comment period which ended March 1, 2000. A summary of these comments by kinds of tobacco follows:

(1) *Fire-cured (type 21) tobacco.* One comment was received, recommending a 15-percent reduction in 2000 quotas.

(2) *Fire-cured (types 22–23) tobacco.* Five comments were received.

Recommendations ranged from a 5-percent to a 7½-percent increase in MY 2000 quotas.

(3) *Dark air-cured (types 35–36) tobacco.* Six comments were received. All recommended a 5-percent increase in the quota.

(4) *Virginia sun-cured (type 37) tobacco.* One comment was received, recommending no change in quota.

(5) *Cigar-filler and binder (types 42–44 and 53–55) tobacco.* Two comments were received. One recommended a 15-percent reduction in quotas, while the other recommended a 20-percent reduction.

Quota and Related Determinations

The tobacco program is, through assessments, operated at no net cost to taxpayers other than the costs common to all price support operations. Accordingly, producer comments are given considerable weight in this review. Based on a review of the comments received and the latest available statistics of the Federal Government, which are the most reliable data available, the following determinations were made for the five kinds of tobacco.

(1) Fire-Cured (Type 21) Tobacco

The average annual quantity of fire-cured (type 21) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1999 MY was approximately 1.0 million pounds (farm sales weight basis). The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1999 MY was 1.7 million pounds (farm sales weight basis). Both domestic use and exports have trended downward. Because of these considerations, a normal year's domestic consumption has been determined to be 0.7 million pounds, and a normal year's exports have been determined to be 1.62 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 4.8 million pounds (farm sales weight basis).

Manufacturers and dealers reported stocks held on October 1, 1999, of 2.7 million pounds. The 1999 crop is estimated to be 2.5 million pounds.

Therefore, total supply for the 1999 MY is 5.2 million pounds. During the 1999 MY, it is estimated that disappearance will total approximately 2.1 million pounds. Deducting this disappearance from total supply results in a 2000 MY beginning stock estimate of 3.1 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 2000, is 1.7 million pounds. This represents the quantity that may be marketed which will make available during the 2000 MY a supply equal to the reserve supply level. More than 95 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 2000 national marketing quota of 1.782 million pounds is necessary to make available production of 1.7 million pounds. As permitted by section 312(b) of the 1938 Act, it was further determined that the 2000 national marketing quota should be increased by 20 percent over the normal formula amount in order to avoid undue restriction of marketings. This determination took into account the size of last year's quota, the comments, the long storage time for aging purposes for this tobacco, and the possibility of changes in demand over expected demand. Thus, the national marketing quota for the 2000 crop is 2.138 million pounds.

In accordance with section 313(g) of the 1938 Act, dividing the 2000 national marketing quota of 2.138 million pounds by the 1995–99, 5-year national average yield of 1,566 pounds per acre results in a 2000 national acreage allotment of 1,365.26 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 0.85 is determined by dividing the national acreage allotment for the 2000 MY, less a national reserve of 5.58 acres, by the total of the 2000 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(2) Fire-Cured (Types 22–23) Tobacco

The average annual quantity of fire-cured (types 22–23) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1999 MY was approximately 19.8 million pounds (farm sales weight basis). The average annual quantity produced in the United States and exported during the 10 MYs preceding the 1999 MY was 15.6 million pounds (farm sales weight basis). Domestic use has trended upward while exports have varied. Because of these considerations, a normal year's domestic consumption has been determined to be 29.9 million pounds, and a normal year's exports have been determined to be 19.0 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 119.3 million pounds (farm sales weight basis).

Manufacturers and dealers reported stocks held on October 1, 1999, of 86.8 million pounds. The 1999 crop is estimated to be 34.0 million pounds. Therefore, total supply for the 1999 MY is 120.8 million pounds. During the 1999 MY, it is estimated that disappearance will total approximately 40.0 million pounds. Deducting this disappearance from total supply results in a 2000 MY beginning stock estimate of 86.8 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 2000, is 32.5 million pounds. This represents the quantity that may be marketed that will make available during the 2000 MY a supply equal to the reserve supply level. Over 90 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 2000 national marketing quota of 35.75 million pounds is necessary to make available production of 32.5 million pounds.

Utilizing section 312(b) of the 1938 Act, it was further determined for the same reason as with fire-cured (type 21) tobacco, that the 2000 national marketing quota should be increased by 20 percent over the normal formula amount in order to avoid undue restriction of marketings. Thus, the national marketing quota for the 2000 crop is 42.9 million pounds.

In accordance with section 313(g) of the 1938 Act, dividing the 2000 national marketing quota of 42.9 million pounds by the 1995–99, 5-year average yield of 2,494 pounds per acre results in a 2000 national acreage allotment of 17,201.28 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 1.075 is determined by dividing the national acreage allotment for the 2000 MY, less a national reserve of 37.49 acres, by the total of the 2000 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(3) Dark Air-Cured (Types 35–36) Tobacco

The average annual quantity of dark air-cured (types 35–36) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1999 MY was approximately 9.1 million pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1999 MY was 1.2 million pounds (farm sales weight basis). Both domestic use and exports have been erratic. Because of these considerations, a normal year's domestic consumption has been determined to be 11.3 million pounds, and a normal year's exports have been determined to be 1.5 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 35.3 million pounds.

Manufacturers and dealers reported stocks held on October 1, 1999, of 24.0 million pounds. The 1999 crop is estimated to be 10.6 million pounds. Therefore, total supply for the 1999 MY is 34.6 million pounds. During the 1999 MY, it is estimated that disappearance will total approximately 9.2 million pounds. Deducting this disappearance from total supply results in a 2000 MY beginning stock estimate of 25.4 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 2000, is 9.9 million pounds. This represents the quantity that may be marketed that will make available during the 2000 MY a supply equal to the reserve supply level. Over 90 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a national marketing quota of 10.625 million pounds is necessary to make available production of 9.9 million pounds. In accordance with section 312(b) of the 1938 Act, it has been further determined that the 2000 national marketing quota should be increased by 20 percent over the normal formula amount in order to avoid undue restriction of marketings. This determination took into account the same factors as with fire-cured (type 21) tobacco and industry preferences. This results in a national marketing quota for the 2000 MY of 12.75 million pounds.

In accordance with section 313(g) of the 1938 Act, dividing the 2000 national marketing quota of 12.75 million pounds by the 1995–99, 5-year average yield of 2,187 pounds per acre results in

a 2000 national acreage allotment of 5,829.90 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 1.05 is determined by dividing the national acreage allotment for the 1999 MY, less a national reserve of 28.61 acres, by the total of the 2000 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(4) Virginia Sun-Cured (Type 37) Tobacco

The average annual quantity of Virginia sun-cured (type 37) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1999 MY was approximately 60,000 pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1999 MY was approximately 100,000 pounds (farm sales weight basis). Both domestic use and exports are erratic. Because of these considerations, a normal year's domestic consumption has been determined to be 79,000 pounds, and a normal year's exports have been determined to be 17,850 pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 259,000 pounds.

Manufacturers and dealers reported stocks held on October 1, 1999, of 50,000 pounds. The 1999 crop is estimated to be 160,000 pounds. Therefore, total supply for the 1999 MY is 210,000 pounds. During the 1999 MY, it is estimated that disappearance will total approximately 80,000 pounds. Deducting this disappearance from total supply results in a 2000 MY beginning stock estimate of 130,000 pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1999, is 129,000 pounds. This represents the quantity that may be marketed that will make available during the 1999 MY a supply equal to the reserve supply level. About three-quarters of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 2000 national marketing quota of 171,000 pounds is necessary to make available production of 129,000 pounds. Thus, the national marketing quota for the 2000 crop is 171,000 pounds.

In accordance with section 313(g) of the 1938 Act, dividing the 2000 national marketing quota of 171,000 pounds by the 1995–99, 5-year average yield of 1,407 pounds per acre results in a 2000 national acreage allotment of 121.54 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment for the 2000 MY, less a national reserve of 0.58 acres, by the total of the 2000 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(5) Cigar-Filler and Binder (Types 42–44 and 53–55) Tobacco

The average annual quantity of cigar-filler and binder (types 42–44 and 53–55) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1999 MY was approximately 10.3 million pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1999 MY was less than 100,000 pounds (farm sales weight). Domestic use has trended downward and exports are very small. Thus, a normal year's domestic consumption has been determined to be 5.2 million pounds, and a normal year's exports have been determined to be 70,000 pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 15.1 million pounds.

Manufacturers and dealers reported stocks held on October 1, 1999, of 14.3 million pounds. The 1999 crop is estimated to be 2.8 million pounds. Therefore, total supply for the 1999 MY is 17.1 million pounds. During the 1999 MY, it is estimated that disappearance will total about 5.0 million pounds. Deducting this disappearance from total supply results in a 2000 MY beginning stock estimate of 12.1 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 2000, is 3.0 million pounds. This represents the quantity that may be marketed that will make available during the 2000 MY a supply equal to the reserve supply level. About 80 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 2000 national marketing quota of 3.64 million pounds is necessary to make available production of 3.0 million pounds. This results in a 2000 national marketing quota of 3.64 million pounds. This determination reflects that there are short reserve supplies and takes into account possible changes in expected demand and the fact that even with this adjustment the 2000 quota will be less than the 1999 crop quota.

In accordance with section 313(g) of the 1938 Act, dividing the 2000 national marketing quota of 3.64 million pounds by the 1995–99, 5-year average yield of 2,139 pounds per acre results in a 2000 national acreage allotment of 1,701.73 acres.

Pursuant to the provisions of section 313(g), of the 1938 Act, a national factor of 0.825 is determined by dividing the national acreage allotment for the 2000 MY, less a national reserve of 6.57 acres, by the total of the 2000 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(6) Referendum Results for Fire-Cured (Types 21–23) and Dark Air-cured (Types 35–36) Tobaccos

Because of the results of the producer referendum, marketing quotas shall be in effect for the 2000 MY for both fire-cured (types 21–23) and dark air-cured (types 35–36) tobaccos. In separate referenda held March 20–24, 2000, 92.0 percent of fire-cured producers and 90.4 percent of dark air-cured producers voted in favor of quotas.

REFERENDUM DATA

Kind of tobacco	Total votes	Yes votes	No votes	% Yes votes
Fire-cured (types 21–23)	5,229	4,809	420	92.0
Dark Air-cured (types 35–36)	5,295	4,785	510	90.4

Price Support

Statutory Provisions

Section 106(f)(6)(A) of the 1949 Act provides that the level of support for the 2000 crop of a kind of tobacco (other than flue-cured and burley) shall be the level in cents per pound at which the 1999 crop of such kind of tobacco was supported, plus or minus, as appropriate, the amount by which the basic support level for the 2000 crop, as it would otherwise be determined under section 106(b) of the 1949 Act, is greater or less than the support level for the 1999 crop, as it would otherwise be determined under section 106(b). To the extent that the price support level would be increased as a result of that comparison, section 106(f) provides that the increase may be modified using the provisions of 106(d). Under 106(d), the Secretary may reduce the level of support for grades the Secretary determines will likely be in excess supply so long as the weighted level of support for all grades maintains at least 65 percent of the increase in the price support (from the previous year). The Secretary must consult with the appropriate tobacco associations and take into consideration the supply, and anticipated demand for the tobacco, including the effect of the action on other kinds of quota tobacco. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary is required to consider the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity, and stalk position of such tobacco.

Section 106(b) of the 1949 Act provides that the ''basic support level'' for any year is determined by multiplying the support level for the 1959 crop of such kind of tobacco by the ratio of the average of the index of prices paid by farmers, including wage rates, interest and taxes (referred to as the ''parity index'') for the 3 previous calendar years to the average index of such prices paid by farmers, including wage rates, interest and taxes for the 1959 calendar year.

In addition, section 106(f)(6)(B) of the 1949 Act provides that to the extent requested by the board of directors of an association through which price support is made available to producers (producer association), the Secretary may reduce the support level determined under section 106(f)(6)(A) of the 1949 Act for the respective kind of tobacco to more accurately reflect the market value and improve the marketability of such tobacco. Accordingly, the price support level for a kind of tobacco set forth in this rule could be reduced if such a request is made.

Price Support Determinations

The following levels of price support for the 1999 crops of various kinds of tobacco, which were determined in accordance with section 106(f)(6)(A) of the 1949 Act, are as follows:

Kind and type	Support level (cents per pound)
Fire-cured (type 21)	155.9
Fire-cured (types 22–23)	171.6
Dark air-cured (types 35–36)	148.1
Virginia sun-cured (type 37)	138.0
Cigar-filler and binder (types 42–44 and 53–55)	123.8

For the 2000 crop year:

(1) Average parity indexes for calendar year periods 1996–1998 and 1997–1999 are as follows:

Year	Index	Year	Index
1996	1,531	1997	1,574
1997	1,574	1998	1,532
1998	1,532	1999	1,537
Average	1,546	Average	1,548

(2) Average parity index, calendar year 1959 = 298.

(3) 1999 ratio of 1,546 to 298 = 5.19; 2000 ratio of 1,548 to 298 = 5.19.

(4) Ratios times 1959 support levels are as follows:

Kind and type of tobacco	1959 support level	Basic support level [1]		Increase from 1999 to 2000
	(¢/lb.)	1999 (¢/lb.)	2000 (¢/lb.)	
Fire-cured (type 21)	38.8	200.2	200.2	0
Fire-cured (types 22–23)	38.8	200.2	200.2	0
Dark air-cured (types 35–36)	34.5	178.0	178.0	0
Virginia sun-cured (type 37)	34.5	178.0	178.0	0
Cigar-filler and binder (types 42–44, 53–55)	28.6	147.6	147.6	0

[1] 1999 ratio is 5.19, 2000 ratio is 5.19.

Accordingly, the following price support determinations were announced on March 1, 2000, for the 2000 crops of the tobaccos which are the subject of this notice:

Kind and type of tobacco	Support level (cents per pound)
Fire-cured (type 21)	155.9
Fire-cured (types 22–23)	171.6
Dark air-cured (types 35–36)	148.1
Virginia sun-cured (type 37)	138.0
Cigar-filler and binder (types 42–44 and 53–55)	123.8

List of Subjects

7 CFR Part 723

Acreage allotments, Marketing quotas, Penalties, Reporting and recordkeeping requirements, Cigarettes.

7 CFR Part 1464

Price supports, Tobacco.

Accordingly, 7 CFR parts 723 and 1464 are amended to read as follows:

PART 723—TOBACCO

1. The authority citation for 7 CFR part 723 continues to read as follows:

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 1421, 1445–1, and 1445–2.

2. Section 723.113 is amended by adding paragraph (h) to read as follows:

§ 723.113 Fire-cured (type 21) tobacco.

* * * * *

(h) The 2000-crop national marketing quota is 2.138 million pounds.

3. Section 723.114 is amended by adding paragraph (h) to read as follows:

§ 723.114 Fire-cured (types 22–23) tobacco.

* * * * *

(h) The 2000-crop national marketing quota is 42.9 million pounds.

4. Section 723.115 is amended by adding paragraph (h) to read as follows:

§ 723.115 Dark air-cured (types 35–36) tobacco.

* * * * *

(h) The 2000-crop national marketing quota is 12.75 million pounds.

5. Section 723.116 is amended by adding paragraph (h) to read as follows:

§ 723.116 Sun-cured (type 37) tobacco.

* * * * *

(h) The 2000-crop national marketing quota is 171,000 pounds.

6. Section 723.117 is amended by adding paragraph (h) to read as follows:

§ 723.117 Cigar-filler and binder (types 42–44 and 53–55) tobacco.

* * * * *

(h) The 2000-crop national marketing quota is 3.64 million pounds.

PART 1464—TOBACCO

7. The authority citation for 7 CFR part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, and 1445–1; 15 U.S.C. 714b and 714c.

8. Section 1464.13 is amended by adding paragraph (h) to read as follows:

§ 1464.13 Fire-cured (type 21) tobacco.

* * * * *

(h) The 2000-crop national price support level is 155.9 cents per pound.

9. Section 1464.14 is amended by adding paragraph (h) to read as follows:

§ 1464.14 Fire-cured (types 22–23) tobacco.

* * * * *

(h) The 2000-crop national price support level is 171.6 cents per pound.

10. Section 1464.15 is amended by adding paragraph (h) to read as follows:

§ 1464.15 Dark air-cured (types 35–36) tobacco.

* * * * *

(h) The 2000-crop national price support level is 148.1 cents per pound.

11. Section 1464.16 is amended by adding paragraph (h) to read as follows:

§ 1464.16 Virginia sun-cured (type 37) tobacco.

* * * * *

(h) The 2000-crop national price support level is 138.0 cents per pound.

12. Section 1464.17 is amended by adding paragraph (h) to read as follows:

§ 1464.17 Cigar-filler and binder (types 42–44 and 53–55) tobacco.

* * * * *

(h) The 2000-crop national price support level is 123.8 cents per pound.

Signed at Washington, DC, on October 20, 2000.

Keith Kelly,

Administrator, Farm Service Agency and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 00–27716 Filed 10–27–00; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Parts 718 and 729

Commodity Credit Corporation

7 CFR Part 1446

RIN 0560–AF61

Amendments to Regulations Governing the Peanut Poundage Quota and Price Support Programs

AGENCIES: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Commodity Credit Corporation (CCC) and Farm Service Agency (FSA) are adopting as a final rule the provisions of an interim rule issued February 18, 2000, which made minor changes to regulations governing the peanut poundage quota and price support programs. The rule also makes a technical amendment to the regulations to reinstate compliance regulations that are applicable to tolerance for peanut acreage reported as planted. In addition, this rule makes technical corrections which update regulations dealing with appeals and with imported peanuts.

This action is necessary to improve the administration of the peanut quota and price support programs.

DATES: Effective October 30, 2000.

FOR FURTHER INFORMATION CONTACT: David Kincannon, (202) 720–7914.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

For purposes of Executive Order 12866, this rule was determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this interim rule because neither the FSA nor CCC is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Unfunded Federal Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this interim rule applies are: Commodity Loans and Purchases—10.051.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule do not preempt State laws to the extent that such laws are consistent with the provisions of this rule. Before any legal action may be brought regarding determinations of this rule, the administrative appeal provisions set

forth at 7 CFR part 780 must be exhausted.

National Appeals Division Rules of Procedure

The procedures set out in 7 CFR parts 11 and 780 apply to appeals of adverse decisions made under the regulations adopted in this rule.

Paperwork Reduction Act

The information collection reporting requirements contained in the regulations at 7 CFR parts 729 and 1446 include OMB Control Numbers 0560–0006 and 0560–0014 assigned by OMB. The 0560–0006 collection requirements have been approved by OMB and the 0560–0014 collection requirements have been forwarded for approval. The provisions of this rule do not impose new reporting requirements or changes in existing information collection requirements.

Background

An interim rule issued by CCC and FSA on February 18, 2000, initiated changes to regulations at 7 CFR parts 718, 729 and 1446 applicable to the peanut poundage quota and price support programs. The changes were relatively minor and primarily clarified administrative provisions. Some changes corrected erroneous references and, in one case, restated a necessary provision inadvertently omitted in previous rulemaking. Several changes provided peanut producers greater flexibility. The comment period expired March 20. FSA received no comments to the amendments made effective by the interim rule. Accordingly, the provisions of the interim rule have been adopted as final amendments to the regulations.

In addition, this final rule amends § 1446.416 to remove the specific reference to section 22 of the Agricultural Adjustment Act of 1933, as amended (1933 Act), to add references to other authority pursuant to which the President could temporarily suspend restrictions on the importation of peanuts and to amend references to the National Appeals Division that are no longer applicable or appropriate due to statutory and regulatory changes.

Suspension of Restrictions on Imported Peanuts

Under Section 358e(f)(6) of the Agricultural Adjustment Act of 1938 (1938 Act), it is provided that notwithstanding any other provision of the 1938 Act, if the President issues a proclamation under section 404(b) of the Uruguay Round Agreements Act (19 USCS 3601(b)) expanding the quantity of peanuts subject to the in-quota rate of duty under a tariff-rate quota, or under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, temporarily suspending restrictions on the importation of peanuts, the Secretary shall, subject to such terms and conditions as the Secretary may prescribe, permit a handler, with the written consent of the producer, to purchase additional peanuts from any producer who contracted with the handler and to offer the peanuts for sale for domestic edible use. That provision is administered, for the peanut program, under 7 CFR 1446.616 but until this notice, which updates the regulation, the only statutory provision referred to in the regulation was Section 22 of the Agricultural Adjustment Act. This notice amends 1446.416 so that it will more closely track the provision of Section 358e(f)(6) of the 1938 Act.

Reductions of Penalties and Appeals

The National Appeals Division (NAD) was reorganized by the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–345) (the Act) and made subject to the general supervision of and policy direction of the Secretary of Agriculture. As a result of the reorganization, a new part 11 was added to 7 CFR Subtitle A to set forth the provisions for program participants to seek review of an adverse decision. The provisions of 7 CFR 1446.704 no longer accurately reflected the appeal process as set forth in the regulations at 7 CFR part 11 applicable to NAD. In addition, there was no reference to the appeal regulations at 7 CFR part 11. Accordingly, the provisions of § 1446.704 are amended by this final rule to address penalty reductions only and a new section, § 1446.705 is added to direct the public to the appeal regulations at 7 CFR parts 11 and 780.

Because no comments were received on the amendments implemented by the interim rule and since the amendments were minor, clarifying and administrative in nature, the interim rule published at 65 FR 8245 on February 18, 2000, amending 7 CFR parts 718, 729 and 1446, is adopted by this rule as final without change. The changes made are of administrative nature for clarification. We have determined that these changes should be included in this final rule as a delay in implementation would be contrary to the public interest.

List of Subjects

7 CFR Part 718

Acreage allotments, Drug traffic control, Loan programs–agriculture, Marketing quotas, Price support programs, Reporting and recordkeeping requirements.

7 CFR Part 729

Marketing quotas, Peanuts, Penalties, Reporting and recordkeeping requirements.

7 CFR Part 1446

Loan programs-agriculture, Peanuts, Price support programs, Reporting and recordkeeping requirements, Warehouses.

Accordingly, for the reasons set forth in the preamble, changes to 7 CFR parts 718, 729 and 1446 as issued as an interim rule are adopted as final without change. In addition, part 1446 is further amended as follows:

PART 1446–PEANUTS

1. The authority citation for part 1446 continues to read as follows:

Authority: 7 U.S.C. 7271; 15 U.S.C. 714b and 714c.

§ 1446.416 [Amended]

2. Section 1446.416 is amended by removing the phrase ''section 22 of the Agricultural Adjustment Act of 1933, as amended,'' and adding the phrase ''Section 404(b) of the Uruguay Round Agreements Act (19 USCS § 3601(b)) expanding the quantity of peanuts subject to the in-quota rate of duty under a tariff-rate quota, or under section 22 of the Agricultural Adjustments Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937''.

3. Section 1446.704 is revised to read as follows:

§ 1446.704 Reductions of penalties.

(a) Request for reconsideration. A handler who is dissatisfied with a penalty that has been assessed against such handler by the CCC Contracting Officer pursuant to this part may file a written request for reconsideration or reduction of the penalty that has been assessed. Such request must be made within 15 days after the date of the notice of assessment.

(b) Reduction of penalties.

(1) By CCC Contracting Officer. To the extent permitted by the provisions of paragraph (d) of this section, the CCC Contracting Officer may reduce the amount of penalty that is otherwise determined or assessed in accordance

with this part. Such reduction may be made before the penalty is assessed or may be made during the course of an appeal.

(2) By the Executive Vice President, CCC. To the extent permitted by the provisions of paragraph (d) of this section, the Executive Vice President, CCC, or the Executive Vice President's designee, may reduce the amount of penalty that has been assessed in accordance with this part.

(c) Reduction criteria. A penalty that is determined or assessed in accordance with this part may be reduced by the CCC Contracting Officer or the Executive Vice President, CCC, or the Executive Vice President's designee, if such person determines that:

(1) The violation for which the penalty was assessed was minor or inadvertent;

(2) A reduction in the amount of the penalty would not impair the effective operation of the peanut program; and

(3) The assessment of penalty was not made for failure to export contract additional peanuts.

(d) Reduction limits.

(1) If the reduction criteria in paragraph (c) of this section has been met, the CCC Contracting Officer or the Executive Vice President, CCC, or the Executive Vice President's designee, as applicable, may reduce the penalty by such amount as such person considers appropriate (including a full reduction of the entire penalty) after taking into account the severity of the violation and the violation history of the handler.

(2) If one of the criteria in paragraphs (c) (1) and (2) of this section has not been satisfied and the remaining criteria has been satisfied, the penalty shall not be reduced to less than an amount which is equal to 40 percent of the national average quota support rate for the applicable crop year times the quantity of peanuts involved in the violation.

(3) There shall not be a limit on the amount by which an assessment of liquidated damages may be reduced by the CCC Contracting Officer or the Executive Vice President, CCC, or the Executive Vice President's designee.

§ 1446.705 and 1446.706 [Redesignated as sections 1446.706 and 1446.707]

4. Sections 1446.705 and 1446.706 are redesignated as 1446.706 and 1446.707 and § 1446.705 is added to read as follows:

§ 1446.705 Appeals.

A handler may obtain reconsideration and review of any adverse determination made under this part in accordance with the appeal regulations found at 7 CFR parts 11 and 780 of this title.

Signed at Washington, D.C., on October 23, 2000.

Keith Kelly,

Administrator, Farm Service Agency and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 00–27715 Filed 10–27–00; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4279

RIN 0570–AA31

Business and Industry Guaranteed Loan Program—Domestic Lamb Industry Adjustment Assistance Program Set Aside

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: The Rural Business-Cooperative Service (RBS) is amending its regulation for Business and Industry Loans, as part of a U.S. Department of Agriculture (USDA) initiative to assist the ailing domestic lamb industry, to establish a 3-year set aside of a portion of its Business and Industry (B&I) Guaranteed Loan Program funds to finance real estate purchases and improvements, working capital, debt refinancing, and equipment in domestic lamb packing and processing plants. The intended effect of this rule is to enhance the lamb industry's ability to compete in the marketplace.

DATES: The effective date of this interim rule is October 30, 2000. Written or e-mail comments must be received on or before December 29, 2000 to be assured of consideration.

ADDRESSES: Submit written comments via U.S. Postal Service, in duplicate, to the Regulations and Paperwork Management Branch, Attention: Cheryl Thompson, Rural Development, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250–0742. Submit written comments via Federal Express Mail, in duplicate, to the Regulations and Paperwork Management Branch, Attention: Cheryl Thompson, USDA-Rural Development, 3rd Floor, 300 E Street, SW., Washington, DC 20546. Also, comments may be submitted via the Internet by addressing them to ''comments@rus.usda.gov.'' The comment must contain the word *''Lamb''* in the subject line. All comments will be available for public inspection during regular work hours at the 300 E Street, SW., address listed above.

FOR FURTHER INFORMATION CONTACT: Roland Woodfolk, Commercial Loan Specialist, Business Programs Processing Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3221, 1400 Independence Avenue, SW., Washington, D.C. 20250–3221, telephone (202) 690–3805, or by sending an e-mail message to ''roland.woodfolk@usda.gov''.

SUPPLEMENTARY INFORMATION:

Classification

This interim final rule has been determined not significant and, therefore, has not been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Programs Affected

The Catalog of Federal Domestic Assistance number for this program impacted by this action is 10.768, Business and Industry Loans.

Intergovernmental Review

Business and Industry Guaranteed loans are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. RBS has conducted or will conduct intergovernmental consultation in the manner delineated in 7 CFR part 3015, subpart V, ''Intergovernmental Review of Department of Agriculture Programs and Activities.''

Civil Justice Reform

This interim rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' In accordance with this rule: (1) All state and local laws and regulations that are in conflict with this rule will be preempted, (2) no retroactive effect will be given this rule, and (3) administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted before bringing suit in court challenging action taken under this rule.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' RBS has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in

accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, an Environmental Impact Statement is not required.

Paperwork Reduction Act

There is no reporting and recordkeeping requirements associated with this interim rule.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C chapters 17A and 25, 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, RBS 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 1 year. When such a statement is needed for a rule, section 205 of UMRA generally requires RBS 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. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, RBS has determined that this action would not have a significant economic impact on a substantial number of small entities, because the action will not affect a significant number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). RBS made this determination based on the fact that this regulation only impacts those who choose to participate in the program. Small entity applicants will not be impacted to a greater extent than large entity applicants.

Executive Order 13132

It has been determined under Executive Order 13132, ''Federalism,'' that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions or on the distribution of power and responsibilities among the various levels of Government.

Immediate Effectiveness of This Rule

It has been determined that this rule should be issued as an interim rule, effective immediately (October 30, 2000), but subject to the modification on the consideration of comments that are timely received. As a result of the United States International Trade Commission findings in Investigation Number TA–201–68 on July 7, 1999, the President issued a declaration concerning the lamb meat industry. In response to that declaration, the Secretary of Agriculture is implementing import relief and adjustment assistance measures using, among other things, USDA loan programs to facilitate efforts of the domestic lamb industry to compete with foreign lamb industries.

Market conditions have deteriorated since 1997. Lamb producers have been some of the hardest hit, suffering major losses during 1997 and 1998, due to record high imports of low-price lamb meat; so there is a critical need for immediate action. Furthermore, while the need for immediate assistance is critical, potential harm to other parties, resulting from the issuance of this rule as an interim rule, is expected to be minimal. Therefore, RBS has determined that the notice and public procedure thereon are impracticable, unnecessary, and contrary to public interest.

Discussion of the Interim Rule

The purpose of the B&I Guaranteed Loan Program is to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities. This purpose is achieved by bolstering the existing private credit structure through the guaranteeing of quality loans that will provide lasting community benefits.

The U.S. sheep industry lacks competitive domestic lamb products at the wholesale and retail levels to effectively compete with imported products. Upgrading processing systems to produce a consumer-ready product at the retail level, that include attributes such as modified atmosphere packaging, portion control, and pre-cooked items, will greatly enhance the domestic lamb industry's ability to compete in the marketplace. B&I loans to upgrade, replace, and install new processing and packaging equipment are eligible under existing program regulations. As part of a USDA initiative to target assistance to the domestic lamb industry, the Agency is setting aside a portion of the B&I Guaranteed Loan Program funds to finance real estate purchases and improvements, working capital, debt refinancing, and equipment in domestic lamb processing and packaging plants. This rule is intended to recognize the set aside of $15 million in fiscal year (FY) 2001, $5 million in FY 2002, and $5 million in FY 2003.

List of Subjects in 7 CFR Part 4279

Loan programs—Business, Rural areas.

Therefore, chapter XLII, title 7, Code of Federal Regulations, is amended as follows:

PART 4279—GUARANTEED LOANMAKING

1. The authority citation for part 4279 continues to read as follows:

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

Subpart B—Business and Industry Loans

2. Section 4279.175 is added to read as follows:

§ 4279.175 Domestic lamb industry adjustment assistance program set aside.

A 3-year set aside of B&I Guaranteed Loan Program funds has been established in the National Office to fund loans to lamb processors for real estate purchases and improvements; working capital; debt refinancing; and upgrading, replacing, and installing new processing and packaging equipment for domestic lamb packing and processing plants. The set aside is $15 million for FY 2001, $5 million for FY 2002, and $5 million for FY 2003. These funds will be available through the third quarter of each respective year and, if not used, will revert for use in the general program.

Dated: September 29, 2000.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 00–27788 Filed 10–27–00; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–29–AD; Amendment 39–11952; AD 2000–22–06]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Pratt & Whitney (PW) JT8D series turbofan engines, that requires inspections of main fuel pump control shafts for excessive spline wear. Additionally, as terminating action to the inspections, this action requires the replacement of the main fuel pump control shaft with parts of improved design, and reworking the main fuel pump impeller, impeller gear train plate assembly, and impeller cover assembly. This amendment is prompted by reports of failed main fuel pump control shafts caused by excessive spline wear. The actions specified by this AD are intended to prevent loss of engine throttle control, uncommanded acceleration, uncommanded deceleration or inflight shutdown, which could result in reduced airplane control during a critical phase of flight.

DATES: Effective December 4, 2000. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 4, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770, fax (860) 565–4503. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7175, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Pratt & Whitney (PW) Models JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A series turbofan engines was published in the **Federal Register** on May 5, 2000 (65 FR 26152). That action proposed to require inspections of main fuel pump control shafts for excessive spline wear. Additionally, as terminating action to the inspections, this proposal would require the replacement of the main fuel pump control shaft with parts of improved design, and reworking the main fuel pump impeller, impeller gear train plate assembly, and impeller cover assembly.

Comments Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Use of PMA Part Number

One comment requests that the FAA clarify the AD to allow the use of a parts manufacturer approved (PMA) part for the new main fuel pump control shaft. The FAA agrees that the addition of specific part number language will clarifiy the requirements of the AD. Specific part number language has been added to paragraph (e) of the AD.

Request To Clarify Gearbox Change Maintenance

One comment asks the FAA to clarify the requirements regarding a gearbox change where the entire gearbox is removed and the hardware, including the fuel pump, is transferred to the replacement gearbox. The FAA does not agree that the inspection requirements need to be clarified. In the case of the gearbox change, the accessibility of the main fuel pump is clearly defined in paragraph (e)(1) of this AD and, therefore, requires the inspections detailed in paragraph (a) of the AD.

Requests for Extension of Inspection and Replacement Limits

Two comments request that inspection and replacement intervals be extended or altered. One comment asks that the FAA extend the overhaul limit for main fuel pumps with more that 12,000 hours TIS since overhaul from 2000 hours TIS to 3000 hours TIS. Another comment requests that the overhaul limit for a main fuel pump with over 12,000 TIS be extended to 6,000 hours if a successful inspection is performed on the pump. Extensions are requested based on the impact the additional fuel pump overhauls will have on an operator's fleet. The FAA agrees in part with these comments. It is not the intent of this AD to place any undue burden on an operator's fleet maintenance. The FAA understands from these comments that some operators would prefer to have an alternative plan that precludes performing the inspections and the associated unplanned maintenance that may result from the inspection program. These operators would prefer to be proactive and to expedite the main fuel pump overhauls on a scheduled basis in order to be fully compliant with the required closing action of the AD, rather than having to perform line maintenance inspections. The FAA has determined that this is an acceptable approach and has added an optional accelerated fleet campaign program that will permit the closing action for the AD to be performed for the entire fleet with the highest time main fuel pumps being addressed first. However, the FAA realizes that the optional plan still may not satisfy the fleet impact concerns of all operators. Operators who believe that the actions required by the AD are a significant burden on their operations and who can show that an alternative plan meets the requirements of paragraph (f) of this AD should submit those plans in accordance with the instructions of paragraph (f).

Request for Extension of the Initial Inspection Threshold

A comment requests that the 1000 hours TIS threshold time for conducting accessibility inspections be extended. The FAA concurs and has extended the initial inspection threshold to 3000 hours TIS for main fuel pumps that have not incorporated the reworked impeller, impeller gear train plate assembly and impeller cover assembly. For main fuel pumps that have incorporated the reworked impeller, impeller gear train plate assembly and impeller cover assembly the initial inspection threshold has been extended to 6000 hours TIS. These changes are reflected in paragraph (a) of this AD.

Change Terminating Action

One comment recommends that the reworked impeller, impeller gear train plate assembly and impeller cover assembly be deemed terminating action to the inspections of paragraphs (a) and (b). This comment asks that the FAA eliminate the replacement of the main fuel pump control shaft as terminating action. The FAA agrees in part. The FAA recognizes that partial incorporation of the terminating actions has some benefit to the main fuel pump control shaft durability. However, the FAA does not agree that it should be terminating action to the inspections. Instead a relaxed inspection and replacement schedule has been added for main fuel pumps that have incorporated the reworked impeller, impeller gear train plate assembly and impeller cover assembly. These changes are reflected in paragraphs (a)(1) and (c)(3)(iii) of this AD.

Modify Definition of Accessibility

One comment suggests that, to be consistent with the alert service bulletin, the words ''on the engine'' be added to the definition of accessibility.

The FAA agrees and has modified the definition in paragraph (e) for clarity.

Typographical Errors in ASB

Two comments point out several typographical errors in ASB A6381. The FAA agrees that some typographical errors may exist in the ASB, however, the errors will not prevent proper execution of the instructions in the ASB. The alleged typographical errors will be forwarded to the manufacturer for possible corrections to later revisions of the ASB.

Require Inspections at Shop Visits only

One comment states that the accessibility inspection requirements place a burden on large complex maintenance operations because of the variety of possible locations and fuel pump exposures. The comment suggests that the FAA limit inspections to a shop visit to reduce the training and tooling required for all of the line maintenance facilities. The FAA agrees and has added an optional accelerated fleet campaign in paragraph (d) of this AD for operators who choose not to equip their line maintenance facilities with the necessary training and tooling to perform the inspections of this AD.

Removal of Engine Models

One comment requests that the FAA remove JT8D–1, –1A and –1B models from the applicability section of the AD. The FAA does not agree. While these particular models are no longer believed to be operating, they are still listed on the type certificate for the JT8D and, as such, must be included in the applicability section of the rule.

Removal of Backlash Inspection

One comment recommends removal of the backlash inspection because of the possibility of missing a worn control shaft. The FAA does not agree. While no inspection program can be 100% effective, this inspection minimizes the possibility of a badly worn main fuel pump control shaft being returned to service prior to being replaced at the next overhaul.

Use of Argo-Tech Parts List Number

One comment recommends that the AD be changed to state that a certain Argo-Tech parts list number should be referenced as terminating action to the inspections of the AD. The FAA does not agree that a change needs to be made to the AD to reference the Argo-Tech parts list number. The certified parts list for an engine build is based on the engine manufacturer's part numbers. There is no top level part number change on the engine manufacturer's top level part number for the main fuel pump assembly, and, therefore, no change in the AD compliance section. An operator may use the Argo-Tech parts list number as long as they can demonstrate by the incorporation of that number that the appropriate maintenance actions required by the AD have been complied with.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Economic Impact

There are approximately 5,800 engines of the affected design in the worldwide fleet. The FAA estimates that 2962 engines installed on aircraft of US registry would be affected by this proposed AD, that it would take approximately 0.3 work hours to perform the required inspections and 0.5 hours per engine to accomplish the replacements proposed at overhaul, and that the average labor rate is $60 per work hour. Required parts would cost approximately $3,996 per engine. Based on these figures, the total cost impact of the proposed AD on US operators is estimated to be $11,978,328.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ''**ADDRESSES.**''

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety Adoption of the Amendment.

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–22–06 Pratt & Whitney: Amendment 39–11952. Docket No. 99–NE–29–AD.

Applicability: Pratt & Whitney (PW) Models JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A turbofan engines, installed on but not limited to Boeing 727 and 737 series, and McDonnell Douglas DC–9 series airplanes.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of engine throttle control, uncommanded acceleration, uncommanded deceleration or inflight shutdown, which could result in reduced airplane control during a critical phase of flight, accomplish the following:

Initial Inspection

(a) Inspect and, if necessary, replace the main fuel pump control shaft in accordance with procedures and intervals described in paragraphs 1.B. and 1.C. of the Accomplishment Instructions of PW Alert Service Bulletin (ASB) A6381, dated March 15, 2000, as follows:

(1) For fuel pumps that have incorporated the modifications of paragraph (c)(1) but not the modifications of paragraph (c)(2) as of the effective date of this AD, perform the initial inspection at the next main fuel pump accessibility after accumulating 6000 hours time in service (TIS) since last main fuel pump overhaul.

(2) For fuel pumps that have not incorporated the modifications of paragraph (c)(1) as of the effective date of this AD, perform the initial inspection at the next main fuel pump accessibility after accumulating 3000 hours TIS since last main fuel pump overhaul.

Repetitive Inspections

(b) Thereafter, reinspect the main fuel pump control shaft and remove and replace, if necessary, in accordance with intervals and procedures described in paragraphs 1.B. and 1.C. of the Accomplishment Instructions of PW ASB A6381, dated March 15, 2000.

Installation and Terminating Action

(c) At the next main fuel pump overhaul perform the following:

(1) Install a reworked impeller, impeller gear train plate assembly and impeller cover assembly in accordance with paragraph 2.A of PW ASB A6381, dated March 15, 2000.

(2) Replace the main fuel pump control shaft with a serviceable main fuel pump control shaft.

(3) The next main fuel pump overhaul must occur no later than:

(i) 12,000 hours time in service (TIS) since last fuel pump overhaul; or

(ii) 2000 hours TIS from the effective date of this AD; or

(iii) 3000 hours TIS from the effective date of this AD, provided the main fuel pump has incorporated the modifications of paragraph (c)(1) as of the effective date of this AD and the inspection results from paragraph (a) of this AD are less than or equal to 15 degrees; whichever occurs latest.

(4) Modifications required by paragraph (c)(1) and (c)(2) of this AD constitute terminating action to the inspections required by paragraphs (a) and (b) of this AD.

Optional Fleet Campaign

(d) It is not necessary to perform the inspections required by paragraphs (a) and (b) or to adhere to the schedule of paragraph (c)(3) of this AD if the main fuel control modifications of paragraph (c)(1) and (c)(2) are performed throughout an operator's fleet in accordance with the schedule of Table 1 or Table 2 of this AD as follows:

(1) For fuel pumps that have incorporated the modifications of paragraph (c)(1) but not the modifications of paragraph (c)(2) as of the effective date of this AD, perform modifications in accordance with the schedule of Table 1.

(2) For fuel pumps that have not incorporated the modifications of paragraphs (c)(1) as of the effective date of this AD, perform the modification in accordance with the schedule of Table 2.

TABLE 1.—OPTIONAL ACCELERATED FLEET CAMPAIGN SCHEDULE

[For engines that have incorporated the modifications of paragraph (c)(1) of this AD but not the modifications of paragraph (c)(2) of this AD as of the effective date of this AD]

Time in service since last main fuel pump overhaul:	Perform modifications of paragraph (c)(2) of this AD:
Greater than or equal to 15,000 hours TIS on the effective date of this AD.	Within 1,000 hours TIS from the effective date of this AD.
Greater than or equal to 12,000 hours and less than 15,000 hours TIS on the effective date of this AD.	Within 2,000 hours TIS from the effective date of this AD.
Greater than or equal to 8,000 hours and less then 12,000 hours TIS on the effective date of this AD..	Within 3,000 hours TIS from the effective date of this AD.
Less than 8,000 hours TIS on the effective date of this AD	Within 4,000 hours TIS from the effective date of this AD or 8,000 TIS since last main fuel pump overhaul, whichever occurs later.

TABLE 2.—OPTIONAL ACCELERATED FLEET CAMPAIGN SCHEDULE

[For engines that have NOT incorporated the modifications of paragraph (c)(1) of this AD as of the effective date of this AD]

Time in service since last main fuel pump overhaul:	Perform modifications of paragraph (c)(1) and (c)(2) of this AD:
Greater than or equal to 12,000 hours TIS on the effective date of this AD.	Within 1,000 hours TIS from the effective date of this AD.
Greater than or equal to 10,000 hours and less than 12,000 hours TIS on the effective date of this AD.	Within 2,000 hours TIS from the effective date of this AD.
Greater than or equal to 6,000 hours and less than 10,000 hours TIS on the effective date of this AD.	Within 3,000 hours TIS from the effective date of this AD.
Less than 6,000 hours TIS on the effective date of this AD	Within 4,000 hours TIS from the effective date of this AD or 6,000 hours TIS since last main fuel pump overhaul, whichever occurs later.

Definitions

(e) For the purpose of this AD:

(1) Accessibility of the main fuel pump is defined as removal of the fuel control from the fuel pump on the engine or removal of the fuel pump from the engine.

(2) Main fuel pump overhaul is defined as compliance with the manufacturer's recommended overhaul procedures described in Argo-Tech Overhaul Manual 73–11–1.

(3) A serviceable main fuel pump control shaft is defined as Argo Tech part number 219093 or Rogers Dierks part number RD219093.

Alternative Methods of Compliance

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

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

Ferry Flights

(g) 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.

Incorporated by Reference

(h) The actions specified in this AD must be done in accordance with the following Pratt & Whitney Alert Service Bulletin:

Document no.	Pages	Revision	Date
JT8D A6381	All	Original	March 15, 2000

Total pages: 14.
This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770, fax (860) 565–4503. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Effective Date of This AD

(i) This amendment becomes effective on December 4, 2000.

Issued in Burlington, Massachusetts, on October 20, 2000.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 00–27507 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–202–AD; Amendment 39–11951; AD 2000–22–05]

RIN 2120–AA64

Airworthiness Directives; Short Brothers Model SD3–60 SHERPA Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Short Brothers Model SD3–60 SHERPA series airplanes, that currently requires a one-time visual inspection to determine the part number of the power control cable assemblies and pulleys of the engine controls; and replacement of the power control cable assemblies and pulleys (as applicable) with new parts, if necessary. This amendment requires accomplishment of the inspection and replacement in accordance with revised procedures. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent breakage of the power control cable assemblies due to the inflexible construction of the cable, which could result in loss of engine power and consequent reduced controllability of the airplane.

DATES: Effective December 4, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 4, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 99–03–06, amendment 39–11020 (64 FR 5588, February 4, 1999), which is applicable to all Short Brothers Model SD3–60 SHERPA series airplanes, was published in the **Federal Register** on June 30, 2000 (65 FR 40549). The action proposed to require a one-time inspection to determine the part number of the power control cable assemblies and pulleys of the engine controls; and replacement of the power control cable assemblies and pulleys (as applicable) with new parts, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that approximately 28 airplanes of U.S. registry will be affected by this AD, that it will take approximately 15 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $25,200, or $900 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the 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.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11020 (64 FR 5588, February 4, 1999), and by adding a new airworthiness directive (AD),

amendment 39–11951, to read as follows:

2000–22–05 Short Brothers, PLC: Amendment 39–11951. Docket 2000–NM–202–AD. Supersedes AD 99–03–06, Amendment 39–11020.

Applicability: All Model SD3–60 SHERPA series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) 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 breakage of the power control cable assemblies due to the inflexible construction of the cable, which could result in loss of engine power and consequent reduced controllability of the airplane, accomplish the following:

Inspection and Corrective Actions

(a) At the next scheduled heavy maintenance inspection, but no later than 1,200 flight hours after the effective date of this AD: Perform a one-time inspection to determine the part number (P/N) of the power control cable assemblies and pulleys of the engine controls, in accordance with Part A of the Accomplishment Instructions of Shorts Service Bulletin SD3–60 SHERPA–76–1, Revision 2, dated March 21, 2000.

(1) If any power control cable assembly having P/N SD3–47–1091 or SD3–47–1094 is found, prior to further flight, replace the power control cable assembly with a new power control cable assembly in accordance with Part B of the Accomplishment Instructions of the service bulletin.

(2) If any pulley having P/N C181605 is found, prior to further flight, replace the pulley with a new pulley in accordance with Part C of the Accomplishment Instructions of the service bulletin.

Spares

(b) As of the effective date of this AD, no person shall install on the engine controls of any airplane a cable assembly having P/N SD3–47–1091 or SD3–47–1094, or any pulley having P/N C181605.

Alternative Methods of Compliance

(c) 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, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, International Branch, ANM–116.

Special Flight Permits

(d) 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.

Incorporation by Reference

(e) The actions shall be done in accordance with Shorts Service Bulletin SD3–60 SHERPA–76–1, Revision 2, dated March 21, 2000, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 3, 4, 7, 13, 27	2	Mar. 21, 2000.
2, 8, 10–12, 14–16, 23, 29	1	Oct. 14, 1998.
5, 6, 9, 17–22, 24–26, 28	Original	July 1998.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on December 4, 2000.

Issued in Renton, Washington, on October 23, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–27629 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–376–AD; Amendment 39–11949; AD 2000–22–03]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model DH.125, Model HS.125, Model BH.125, Model BAe.125 Series 800A (Including Major Variants C–29A and U1–25), Model Hawker 800, Model Hawker 800XP, and Model Hawker 1000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Raytheon Model DH.125, Model HS.125, Model BH.125, Model BAe.125 Series 800A, Model Hawker 800, Model Hawker 800XP, and Model Hawker 1000 series airplanes, that requires leak checks and inspections for corrosion of the pitot/static and stall vent drain valves, and replacement of certain components, if necessary. This amendment is prompted by reports of plugged or taped drain valves as well as consequent corrosion of certain drain valves. The actions specified by this AD are intended to prevent erroneous altimeter and airspeed indications due to plugged or taped pitot/static and stall vent drain valves.

DATES: Effective December 4, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 4, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Raytheon Aircraft Company, Manager-Service Engineering, Hawker Customer Support Department, P. O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-

Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul DeVore, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita, Kansas 67209; telephone 316) 946–4142; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Raytheon Model DH.125, Model HS.125, Model BH.125, Model BAe.125 Series 800A, Model Hawker 800, Model Hawker 800XP, and Model Hawker 100 series airplanes was published in the **Federal Register** on June 19, 2000 (65 FR 37922). That action proposed to require leak checks and inspections for corrosion of the pitot/static and stall vent drain valves, and replacement of certain components, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 900 airplanes of the affected design in the worldwide fleet. The FAA estimates that 585 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $140,400, or $240 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the 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.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–22–03 Raytheon Aircraft Co. (Formerly Beech): Amendment 39–11949. Docket 99–NM–376–AD.

Applicability: Model DH.125, Model HS.125, Model BH.125, Model BAe.125, Model Hawker 800, Model Hawker 800XP, and Model Hawker 1000 series airplanes; as listed in Raytheon Aircraft Service Bulletin SB 34–3207, dated August 1999; excluding those airplanes on which all pitot/static drain vent valves have been modified with an insert in accordance with Raytheon Aircraft Repair Design Office instructions; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For 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 (f) 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 erroneous altimeter and airspeed indications due to plugged or taped pitot/static and stall vent drain valves, accomplish the following:

Leak Tests

(a) Within 300 hours time-in-service after the effective date of this AD: Drain the pitot/static and stall vent drain valves, and perform a leak test of the systems, in accordance with Raytheon Aircraft Service Bulletin SB 34–3207, dated August 1999. If all drain valves are operating correctly and the leak test is passed successfully, thereafter, repeat the leak test at intervals not to exceed 300 hours time-in-service.

Drain Valves Operative, Leak Test Failed

(b) If all drain valves are operative, but any valve does not pass the leak test required by paragraph (a) of this AD: Prior to further flight, accomplish the actions specified in paragraph (b)(1), (b)(2), or (b)(3) of this AD.

(1) Apply a temporary seal of the drain valve(s) in accordance with Raytheon Aircraft Service Bulletin SB 34–3223, dated August 1999. Within 300 hours time-in-service after the accomplishment of the temporary seal, accomplish the requirements of paragraph (b)(2) or (b)(3) of this AD.

(2) Replace the drain valve components with new or serviceable drain valve components in accordance with Raytheon Aircraft Service Bulletin SB 34–3207, dated August 1999, and perform the leak test specified in paragraph (a) of this AD. Thereafter, repeat the requirements of paragraph (a) of this AD at intervals not to exceed 300 hours time-in-service.

(3) Modify the drain valves in accordance with Raytheon Aircraft Service Bulletin SB 34–3282, dated August 1999. Thereafter, repeat the requirements of paragraph (a) of this AD at intervals not to exceed 300 hours time-in-service unless all the drain valves have been modified. Accomplishment of this modification on ALL drain valves constitutes terminating action for the requirement to perform repetitive leak tests.

Drain Valves Inoperative

(c) If any drain valve is inoperative (e.g., plugged or taped), whether or not any leaking is detected: Prior to further flight, disassemble the valve and clean all obstructions in accordance with Raytheon Aircraft Service Bulletin SB 34–3207, dated August 1999, and perform a general visual inspection for corrosion of the drain valve.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(d) If no corrosion of the drain valves is detected, prior to further flight, perform the actions specified in either paragraph (d)(1) or (d)(2) of this AD at the time specified.

(1) Perform the leak test specified in paragraph (a) of this AD, and thereafter, repeat the leak test requirements at intervals not to exceed 300 hours time-in-service.

(2) Prior to further flight, modify any inoperative valve in accordance with Raytheon Aircraft Service Bulletin SB 34–3282, dated August 1999. Thereafter, repeat the leak test requirements of paragraph (a) of this AD at intervals not to exceed 300 hours time-in-service. Modification of ALL the drain valves constitutes terminating action for the requirement to perform repetitive leak tests.

(e) If any drain valve is corroded, prior to further flight: Inspect the connecting tubing for corrosion and replace any corroded valve or tubing with a new or serviceable valve or tubing in accordance with Raytheon Aircraft Service Bulletin SB 34–3207, dated August 1999. Accomplish the actions of paragraph (e)(1) or (e)(2) of the AD at the time specified.

(1) Prior to further flight, perform the leak test specified in paragraph (a) of this AD, and thereafter, repeat the leak test requirements of paragraph (a) of this AD at intervals not to exceed 300 hours time-in-service.

(2) Prior to further flight, modify any replaced drain valve in accordance with Raytheon Aircraft Service Bulletin SB 34–3282, dated August 1999. Thereafter, repeat the leak test requirements of paragraph (a) of this AD at intervals not to exceed 300 hours time-in-service. Modification of ALL the drain valves constitutes terminating action for the requirement to perform repetitive leak tests.

Alternative Methods of Compliance

(f) 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, Wichita Aircraft Certification Office (ACO), ACE–116W, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

Special Flight Permit

(g) 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.

Incorporation by Reference

(h) The actions shall be done in accordance with Raytheon Aircraft Service Bulletin SB 34–3207, dated August 1999; Raytheon Aircraft Service Bulletin SB 34–3223, dated August 1999; or Raytheon Aircraft Service Bulletin SB 34–3282, dated August 1999; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Aircraft Company, Manager-Service Engineering, Hawker Customer Support Department, P. O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on December 4, 2000.

Issued in Renton, Washington, on October 23, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–27631 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 92F–0305]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Polydextrose

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polydextrose as a bulking agent, texturizer, or both in tablespreads. This action is in response to a petition filed by Pfizer, Inc.

DATES: This rule is effective October 30, 2000. Submit written objections and requests for a hearing by November 29, 2000.

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

FOR FURTHER INFORMATION CONTACT: Rosalie M. Angeles, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3107.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of August 24, 1992 (57 FR 38311), FDA announced that a food additive petition (FAP 2A4332) had been filed by Pfizer, Inc., 235 East 42d St., New York, NY 10017–5755. Pfizer, Inc., subsequently announced the sale of the Pfizer Food Science Group and the transfer of the petition to Cultor Food Science, Inc., 430 Saw Mill River Rd., Ardsley, NY 10502. Recently, the petitioner announced a name change from Cultor Food Science, Inc., to Danisco Cultor America, Inc. (Danisco), to reflect the acquisition of the company by Danisco. The petition proposed to amend the food additive regulations in § 172.841 *Polydextrose* (21 CFR 172.841) to provide for the safe use of polydextrose as a bulking agent, texturizer, or both in tablespreads.

Polydextrose is intended to replace fully caloric ingredients and to produce reduced- or lower calorie and/or lower-fat tablespreads. The proposed use level of polydextrose in tablespreads is 5 to 12 percent with the weighted mean use level estimated to be 8.5 percent. The petitioner contends that this use level makes possible the formulation of lower-calorie tablespreads that compare favorably with prototypes that contain no polydextrose. The petitioner submitted data to substantiate this claim and to demonstrate that the use of polydextrose in tablespreads is technologically self-limiting (Ref. 1).

II. Conclusions

FDA estimated that the mean consumption of polydextrose from the proposed use in tablespread is 0.7 gram per person per day (g/p/d). The agency considers this consumption insignificant compared to the estimated cumulative intake of polydextrose of 17.5 g/p/d from all currently regulated uses of the additive. Therefore, FDA concludes that there will be a negligible increase in dietary exposure to polydextrose from the issuance of this amendment to the regulation (Ref. 2).

FDA has evaluated data in the petition and other relevant material in its files. Based on this information, the agency concludes that: (1) The proposed food additive use is safe, (2) the additive will achieve its intended technical effect, and therefore, (3) the regulation

in § 172.841 should be amended as set forth below.

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

On June 1, 1998, the President directed all Federal agencies to use ''plain language'' in all new documents. In compliance with this directive, FDA has drafted its amendment to § 172.841 using the principles of ''plain language'' set forth by the President. In amending the regulation, the agency is also making an editorial change by alphabetizing the list of regulated uses of polydextrose.

III. Environmental Impact

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

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

IV. Paperwork Reduction Act of 1995

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

V. Objections

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by November 29, 2000. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VI. Reference

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum dated December 2, 1992, from the Division of Product Manufacture and Use to the Division of Petition Control, ''FAP 2A4332: Pfizer, Inc., Polydextrose in Tablespreads, Technologically Self-limiting Level, Submission of 11–12–92.''

2. Memorandum dated September 30, 1992, from the Division of Product Manufacture and Use to the Division of Petition Control, ''FAP 2A4332 (MATS #658): Pfizer, Inc., Polydextrose as a Bulking Agent/Texturizer in Tablespreads, Submission of 6–22–92.''

List of Subjects in 21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

2. Section 172.841 is amended by revising paragraph (c) to read as follows:

§ 172.841 Polydextrose.

* * * * *

(c) Polydextrose is used in accordance with current good manufacturing practice as a bulking agent, formulation aid, humectant, and texturizer in the following foods when standards of identity established under section 401 of the act do not preclude such use:

(1) Baked goods and baking mixes (restricted to fruit, custard, and pudding-filled pies; cakes; cookies; and similar baked products);

(2) Chewing gum;

(3) Confections and frostings; dressings for salads;

(4) Film coatings on single and multiple vitamin and mineral supplement tablets;

(5) Frozen dairy desserts and mixes;

(6) Fruit spreads;

(7) Gelatins, puddings and fillings;

(8) Hard and soft candy;

(9) Peanut spread;

(10) Sweet sauces, toppings, and syrups; and

(11) Tablespreads.

* * * * *

Dated: October 20, 2000.

L. Robert Lake,

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

[FR Doc. 00–27734 Filed 10–27–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. 99F–673]

Irradiation in the Production, Processing and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ionizing radiation to control microbial pathogens in seeds for sprouting. This action is in response to a petition filed by Caudill Seed Co., Inc.

DATES: This regulation is effective October 30, 2000. Submit written objections and requests for a hearing by November 29, 2000.

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

FOR FURTHER INFORMATION CONTACT: Lane A. Highbarger, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3032.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of August 16, 1999 (64 FR 44530), FDA announced that a food additive petition (FAP 9M4673) had been filed by Caudill Seed Co., Inc., 1402 West Main St., Louisville, KY 40203. The petitioner proposed that the food additive regulations in part 179 *Irradiation in the Production, Processing and Handling of Food* (21 CFR part 179) be amended to provide for the safe use of sources of ionizing radiation to control microbial pathogens in alfalfa and other sprouting seeds.

II. Safety Evaluation

Under section 201(s) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(s)), a source of radiation used to treat food is defined as a food additive. The additive is not, literally, added to food. Instead, a source of radiation is used to process or treat food such that, analogous to other food processes, its use can affect the characteristics of the food. In the subject petition, the intended technical effect is a change in the microbial load of the food, specifically, a reduction in the number of microbial pathogens in or on seeds for sprouting.

The petitioner submitted published articles and other study reports containing data and information related to seeds for sprouting and other kinds of food in the areas of radiation chemistry, nutrition, toxicology, and microbiology. FDA has fully considered the data and studies submitted in the petition as well as other information in its files relevant to the safety and nutritional adequacy of seeds treated with ionizing radiation prior to sprouting.

The effects of ionizing radiation on the characteristics of treated foods are a direct result of the chemical reactions induced by the absorbed radiation. Scientists have compiled a large body of data regarding the effects of ionizing radiation on different foods under various conditions of irradiation. Research has established that the types and amounts of products generated by radiation-induced chemical reactions (''radiolysis products'') depend on the chemical constituents of the food and on the conditions of irradiation. Furthermore, the principles of radiation chemistry govern the extent of changes, if any, both in the nutrient levels and in the microbial load of irradiated foods. Key factors include the specific nutrient or microorganism of interest, the food, and the conditions of irradiation. See the agency's final rule permitting the irradiation of meat for FDA's discussion of radiation chemistry, nutrition, toxicology, and microbiology related to irradiation of foods under various conditions of use (62 FR 64107, December 3, 1997).

FDA has reviewed the relevant data and information submitted in the petition regarding radiation chemistry as it applies to seeds for sprouting, as well as data readily available and in the agency's files. FDA has concluded that the concentrations and types of radiolysis products formed by the irradiation of seeds for sprouting will be comparable to those products produced by the irradiation of foods of similar composition (Ref. 1). Most of these radiolysis products are formed in very small amounts and are either the same as, or structurally similar to, compounds found in foods that have not been irradiated. Thus, the chemical composition of sprouts grown from irradiated seeds will not differ in any significant manner from sprouts grown from seeds that have not been irradiated.

This petition contained no toxicity studies on the sprouts grown from irradiated seeds. Nonetheless, a review of the agency's data base and submitted published references of toxicological studies related to irradiated foods, combined with the fact that only negligible amounts of radiolysis products are expected to be present in the sprouts that are grown from irradiated seeds for sprouting, show that the estimated exposure of an individual to these radiolytic products will be negligible. Therefore, FDA has determined that no toxicity concerns are raised from the petitioned use of irradiation on seeds for sprouting (Ref. 2).

The purported technical effect of irradiating seeds for sprouting is to control the level of microbial pathogens. FDA evaluated data on the relation between various doses of radiation and the reduction of detectable levels of coliforms generally, and *Escherichia coli* 0157:H7 and *Salmonella* serotype Stanley specifically. The petitioner found that, depending on the pathogen and other factors, between 3 and 5 KiloGray (kGy) of irradiation would reduce the amount of pathogens to below detectable levels (Ref. 3). To accommodate the uncertainty of irradiation treatment and dose variation due to absorption by the target, the petitioner requested a maximum irradiation dose of 8 kGy. The agency has determined that irradiation of seeds for sprouting at levels up to 8 kGy will have the desired effect of controlling the levels of microbial pathogens on seeds for sprouting (Ref. 3).

Regarding the nutritional aspects of irradiating seeds for sprouting, it is well documented that protein, fat, and minerals are not significantly altered by irradiation within the given dose range requested in this petition (Ref. 2). The petitioner evaluated the potential loss of vitamins from irradiation of seeds for sprouting. Although there was a great deal of variability in vitamin levels of the seeds tested (*e.g.,* in studies submitted by the petitioner, vitamin A content of sprouts grown from control seeds was actually lower than that for sprouts grown from irradiated seeds), researchers did not observe any significant losses of any of the vitamins in the resultant sprouts (up to 6 kGy) when compared to nonirradiated controls. Any loss of vitamins, even if it occurs, is expected to be inconsequential when compared to total dietary nutrient consumption (Ref. 2). FDA therefore concludes, based on all the evidence before it, that irradiation of seeds for sprouting under the conditions set forth in the regulation below will not have an adverse impact on the nutritional adequacy of a person's diet.

III. Labeling

FDA has also considered whether irradiated seeds for sprouting and sprouts grown from such seeds must bear special labeling. In particular, FDA evaluated the application of § 179.26(c) (21 CFR 179.26(c)) to these products.

A. Seeds for Sprouting

Since any permissible use of ionizing radiation on seeds for sprouting must be in conformance with § 179.26(b), the label and labeling of such seeds for sprouting must comply with the requirements in § 179.26(c).

B. Sprouts Grown From Irradiated Seeds for Sprouting

It is important to recognize that in the use of radiation that is the subject of this rule, the irradiated article is not what is generally eaten because the unsprouted seeds are not normally consumed. While irradiation of the seeds for sprouting may cause some changes in the seed (for example, reduced viability of sprouting), the nutritional and flavor characteristics of the sprouts will derive from the fact that they were grown and not from the fact that the seeds were processed by irradiation. Moreover, the agency has no reason to believe that sprouts grown from irradiated seeds will differ in their sensory characteristics from sprouts grown from seeds that have not been irradiated. Therefore, the agency concludes that sprouts grown

from seeds that have been irradiated need not be labeled as treated by irradiation where the sprouts themselves have not been irradiated.

Based on the data and studies submitted in the petition and other information in the agency's files, FDA concludes that: (1) The proposed use of irradiation on seeds for sprouting at levels not to exceed 8 kGy is safe, (2) the irradiation will achieve its intended technical effect, and therefore, (3) the regulations in § 179.26 should be amended as set forth below.

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

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

IV. Environmental Impact

The agency has determined under 21 CFR 25.32(j) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Objections

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by November 29, 2000. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VI. References

The following references have been placed on display at the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. FDA Memorandum, K. Morehouse to J. Ziyad, February 23, 2000.

2. FDA Memorandum, I. Chen to J. Ziyad, February 28, 2000.

3. FDA Memorandum, M. Walderhaug to J. Ziyad, December 15, 1999.

List of Subjects in 21 CFR Part 179

Food additives, Food labeling, Food packaging, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 179 is amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

1. The authority citation for 21 CFR part 179 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 348, 373, 374.

2. Section 179.26 is amended in the table in paragraph (b) by adding entry ''10.'' under the headings ''Use'' and ''Limitations'' to read as follows:

§ 179.26 Ionizing radiation for the treatment of food.

* * * * *

(b) * * *

Use	Limitations
* * * * * * *	
10. For control of microbial pathogens on seeds for sprouting.	Not to exceed 8.0 kGy.

* * * * *

Dated: October 20, 2000.

L. Robert Lake,

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

[FR Doc. 00–27735 Filed 10–27–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 314 and 601

[Docket No. 99N–1852]

Postmarketing Studies for Approved Human Drug and Licensed Biological Products; Status Reports

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revising the requirements for annual postmarketing status reports for approved human drug and biological products, and is requiring applicants to submit annual status reports for certain postmarketing studies of licensed biological products. This rule describes the types of postmarketing studies covered by these status reports, the information to be included in the reports, and the type of information that FDA would consider appropriate for public disclosure. This action will implement the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: This rule is effective February 27, 2001.

FOR FURTHER INFORMATION CONTACT:
Sharon T. Risso, Center for Biologics Evaluation and Research (HFM–500), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–5098; or
James L. Cobbs, Center for Drug Evaluation and Research (HFD–102), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5922.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Requirements

Section 130(a) of FDAMA (Public Law 105–115) amended the Federal Food, Drug, and Cosmetic Act (the act) by adding a new provision on reports of postmarketing studies (section 506B of the act (21 U.S.C. 356b)). Section 506B of the act provides FDA with additional authority for monitoring the progress of postmarketing studies that applicants have made a commitment to conduct and requires the agency to make publicly available information that pertains to the status of these studies. The following summary describes the obligations of applicants and of FDA under section 506B of the act.

1. Submission of Annual Reports to FDA Under Section 506B of the Act

Any applicant that has committed to conduct a postmarketing study for a drug or biological product that is approved for marketing must submit to FDA a report on the progress of the study or the reasons for the failure of the applicant to conduct the study. The applicant must submit the report within a year after the approval of the product and annually thereafter on the anniversary of the product's U.S. approval until the study is completed or terminated. This provision applies to commitments for postmarketing studies that were made on or after enactment of FDAMA, as well as commitments made before enactment of FDAMA.

2. Special One-Time Reporting Requirement Under Section 506B of the Act

An applicant must submit an initial report to FDA for study commitments made before November 21, 1997, within 6 months after the effective date of the final rule. Subsequent to the initial report, an applicant must submit an annual report to the agency on the anniversary of the product's U.S. approval. For those applicants required to submit an annual report 7 to 12 months after the effective date of the final rule, the submission of the initial report to FDA within 6 months after the effective date of the final rule is an additional one-time burden.

3. FDA Obligations Under Section 506B(c) of the Act

FDA must develop and publish annually in the **Federal Register** a report on the status of postmarketing study commitments.

4. FDA Obligation Under FDAMA (Section 130(b))

FDA must submit a specific report to Congress by October 1, 2001, that contains the following:

1. A summary of the status reports submitted under section 506B of the act;
2. An evaluation of the performance of applicants in fulfilling their commitments to conduct postmarketing studies under this provision;
3. FDA's timeliness in reviewing these postmarketing studies; and
4. Any legislative recommendations regarding postmarketing studies.

B. Proposed Rule

FDA published a proposed rule in the **Federal Register** of December 1, 1999 (64 FR 67207), that would revise the requirements for annual postmarketing status reports for drug and biological products, and that would require applicants to submit annual status reports for certain postmarketing studies of licensed biological products. The proposed rule described the types of postmarketing studies covered by these status reports, the information to be included in the reports, and the type of information that FDA would consider appropriate for public disclosure. The agency proposed this action to implement section 130 of FDAMA. In proposed §§ 314.81(b)(2)(vii) and (b)(2)(viii), and 601.70(b), FDA would require that a status report for a postmarketing study contain the following information:

1. Applicant's name.
2. Product name. This would include the approved product's established/proper name and proprietary name, if applicable.
3. New drug application (NDA) number, abbreviated new drug application (ANDA) number, biologics license application (BLA) reference number, or supplement number for the approved product.
4. Date of product's U.S. approval.
5. Date of postmarketing study commitment.
6. Description of postmarketing study commitment. For clinical studies, this section would include the purpose of the postmarketing study, the patient population addressed by the study, the number of patients and/or subjects to be included in the study, and the indication and dosage(s) that are to be studied. For nonclinical studies, this section would include the type and purpose of the study (e.g., carcinogenicity study to determine effects of chronic dosing).
7. Schedule for conduct, completion, and reporting of the postmarketing study commitment. This section would include projected dates for initiation of the different phases of the study, for completion of the study, and for submission of the final study report to FDA. If the original schedule is revised under section 9 of this status report, the revised schedule would also be reported in this section (i.e., section 7) in the next status report with a note indicating that the schedule has been revised as reported in the previous status report.
8. Current status of the postmarketing study commitment. Applicants would categorize the status of each postmarketing study using one of the following terms that describe the study's status on the U.S. anniversary date of approval of the application or other agreed date:

a. *Pending.* The study has not been initiated (i.e., first patient has not been enrolled).

b. *Ongoing.* The study is proceeding according to, or ahead of, the original schedule described in section 7 of the status report. If a study has been completed but the final study report has not been submitted to FDA, the date the study was completed would be provided.

c. *Delayed.* The study is proceeding but is behind the original schedule described in section 7 of the status report.

d. *Terminated.* The study was ended before completion.

e. *Submitted.* The study has been completed (i.e., last patient finished the protocol) or terminated and a final study report has been submitted to FDA. This category would include the date the final study report was submitted to FDA.

9. Explanation of the study's status. This section would include a brief description of the status of the study, including the number of patients and/or subjects enrolled to date and an explanation of the study's status identified under section 8 of the status report (e.g., delayed due to difficulty in patient accrual, terminated because study would no longer provide useful information, terminated because study is no longer feasible, terminated because of adverse events or other safety issues associated with the use of the product).

If the schedule under section 7 of the status report has changed since the last annual report, this section would also include a revised schedule, as well as the reason(s) for the revision.

FDA invited the public to submit written comments on the proposed rule by February 14, 2000, and on the information collection provisions by January 3, 2000. Comments received have been considered and are discussed in section III of this document. No comments were received on the information collection provisions.

C. Availability of Guidance

To help applicants comply with the requirements of this final rule, the agency is developing a guidance for industry entitled ''Reports on the Status of Postmarketing Studies—Implementation of section 130 of the Food and Drug Administration Modernization Act of 1997.'' FDA intends to make a draft of this guidance available shortly after publication of this final rule.

II. Description of the Final Rule

This final rule amends parts 314 and 601 (21 CFR parts 314 and 601) to revise the status reports section of postmarketing annual reports for drug and licensed biological products (§§ 314.81(b)(2)(vii) and 601.28). This final rule also amends part 601 to require applicants with licensed biological products to submit a separate annual report that describes the status of certain postmarketing studies (§ 601.70). The major provisions of the final rule are summarized below.

Under §§ 314.81(b)(2)(vii) and 601.70(a), the final rule defines postmarketing studies for which status reports must be submitted to FDA under section 506B of the act as those that concern: (1) Clinical safety; (2) clinical efficacy; (3) clinical pharmacology; and (4) nonclinical toxicology studies that are either required by FDA (e.g., accelerated approval clinical benefit studies, pediatric studies) or committed to by the applicant, in writing, at the time of approval of an application or a supplement or after approval of an application or supplement. FDA is including clinical safety and efficacy and clinical pharmacology studies within the scope of this rule because these types of studies provide the most relevant and useful additional information about the risks, benefits, and optimal use of an approved drug or licensed biological product. FDA also is including nonclinical toxicology studies within the scope of this rule, although such studies are not performed on human subjects, because they are important to the further evaluation of the safety of a marketed drug or biological product. For the purpose of this rule, clinical safety and clinical efficacy studies include human epidemiological studies. Clinical pharmacology studies include pharmacokinetic and pharmacodynamic studies.

Under §§ 314.81(b)(2)(vii) and 601.70, the final rule requires applicants to provide status reports to FDA regarding the progress of the postmarketing studies described above. In addition, under § 314.81(b)(2)(viii), applicants with approved NDA's and ANDA's must provide status reports for any postmarketing study not reported under § 314.81(b)(2)(vii) (e.g., chemistry, manufacturing, controls, product stability). These include postmarketing studies performed by, or on behalf of, the applicant on its own initiative. Section 314.81(b)(2)(viii) does not represent a new reporting burden for applicants with approved NDA's or ANDA's because these applicants are currently required to provide status reports on postmarketing studies in annual reports. FDA is not requiring a similar reporting requirement for postmarketing studies of licensed biologicals in this rule. However, applicants with licensed biological products may voluntarily submit status reports to FDA for postmarketing studies that are not required to be reported under § 601.70.

The agency is committed to harmonizing its reporting requirements for drugs and biologics as much as possible. FDA considered amending its biologics regulations to require the submission of information in postmarketing annual reports currently submitted to the agency by applicants with approved NDA's and ANDA's under § 314.81(b)(2)(i) through (b)(2)(vi). FDA also considered combining postmarketing annual reports required under §§ 601.12(d), 601.28, and proposed 601.70 into a single annual report that would include additional information as required in § 314.81(b)(2)(i) through (b)(2)(vi). However, FDA has determined that requiring such additional information is beyond the scope of this rulemaking, and that it is appropriate, at this time, to harmonize only the drugs and biologics postmarketing annual reporting requirements as they relate to section 506B of the act.

III. Comments on the Proposed Rule and FDA Responses

FDA received seven comments on the proposed rule from representatives of pharmaceutical companies and associations. While most comments agreed that the proposed rule appropriately implements section 130 of FDAMA, many comments expressed concern about what information should be included in the status reports and what information should be disclosed to the public.

A discussion of the comments on the proposed rule and the agency's responses follows.

A. Status Reports

(Comment 1) One comment claimed that the proposed content of status reports exceeds that necessary to determine, as stated in section 130 of FDAMA, ''the progress of the study or the reasons for the failure of the sponsor to conduct the study.'' The comment said that the agency turns the simple reporting requirement contemplated by FDAMA into a potentially complicated and burdensome exercise. For example, the comment noted that applicants must provide detailed information on a postmarketing study commitment regarding the purpose of the study, the patient population addressed by the study, the indication and dosage(s) that are to be studied, the projected dates for initiation of the different phases of the study and completion of the study, the status of patient accrual, as well as an explanation of the study's status (which would be categorized separately). The comment recommended that the proposed rule be revised to require applicants to simply identify a pertinent postmarketing study commitment and report on its status using a standardized description. The comment added that additional details regarding the postmarketing study commitment should be provided at the discretion of the applicant.

FDA has reviewed the proposed content for status reports and has decided to make several changes. In §§ 314.81(b)(2)(vii)(*a*)(*6*) and 601.70(b)(6), the agency is revising the requirements for the ''Description of postmarketing study commitment'' section of status reports to permit an applicant to determine the type of information that is necessary to identify a postmarketing study commitment. Instead of specifying the elements that would be required to be included in this section, the provision now provides examples of the type of information that applicants may choose to use to describe a postmarketing study commitment. This section, as revised, now reads:

> The description must include sufficient information to uniquely describe the study. This information may include the purpose of the study, the type of study, the patient

population addressed by the study and the indication(s) and dosage(s) that are to be studied.

The list of examples does not contain ''the number of patients and/or subjects to be included in the study.'' However, an applicant is required to include patient accrual information (by providing the number of patients or subjects enrolled to date and the total planned enrollment) in the section requiring an explanation of the study's status.

The agency recognizes that the extent of information necessary to identify various postmarketing study commitments will vary. In most cases, it will be sufficient to use the language provided in the FDA document describing the postmarketing study commitment (e.g., action letter). In other cases, such as when multiple studies are required to fulfill a postmarketing study commitment, additional information is likely to be needed to describe each of the studies.

In §§ 314.81(b)(2)(vii)(*a*)(*7*) and 601.70(b)(*7*), the agency is revising the ''Schedule of conduct, completion and reporting of the postmarketing study commitment'' section of the status report to require inclusion of only the information that is most important in determining the progress of a study and to clarify that information. FDA is replacing the phrase ''projected dates for initiation of the different phases of the study'' with the phrase ''actual or projected dates for submission of the study protocol to FDA, completion of patient accrual or initiation of an animal study'' and adding ''any additional milestones or submissions for which projected dates were specified as part of the commitment.'' FDA recognizes study phases may vary depending on the type of study and the study design. Because information on some phases of a study may not be meaningful in establishing study progress, FDA is limiting the information for this section to the projected, or actual, dates for the submission of the study protocol to FDA; for completion of patient accrual into a clinical study or initiation of an animal study; for completion of the study; and for submission of the final study report to FDA. In addition, FDA recognizes that some study commitments include an agreement to report important intermediate timepoints or early study endpoints (e.g., evaluation of surrogate endpoints in a study also measuring clinical benefit). If a study commitment includes reporting at such intermediate timepoints, these timepoints should be included in the projected schedule submitted under §§ 314.81(b)(2)(vii)(*a*)(*7*) and 601.70(b)(*7*).

FDA is requiring that the schedule in this section include actual dates, if they represent milestones that have already been reached, in addition to projected dates. This is particularly appropriate for studies that were started before the effective date of this final rule and for which a particular aspect of the study has already been completed by the effective date. Actual dates are also appropriate if a particular aspect of the study (e.g., submission of study protocol) was completed prior to approval of the drug or agreement on the postmarketing commitment.

The agency is revising the section title ''Schedule for conduct, completion and reporting of the postmarketing study commitment'' by removing the word ''conduct'' from the section heading. FDA is making this revision because the word ''conduct'' is not necessary.

FDA is modifying the section ''Current status of the postmarketing study commitment'' at §§ 314.81(b)(2)(vii)(*a*)(*8*) and 601.70(b)(8), by removing from the paragraph ''Ongoing'' the requirement to include the date the study was completed, and removing from the paragraph ''Submitted'' the requirement to provide the date the final study report was submitted to FDA. These date requirements have been added to the section ''Explanation of the study's status'' at §§ 314.81(b)(2)(vii)(*a*)(*9*) and 601.70(b)(9) to consolidate under this section all information providing clarification of the status of individual studies. The paragraph ''Pending'' has been clarified to state that studies that have not been initiated will be categorized as delayed if the study is behind the original schedule for completion and reporting of the postmarketing commitment. FDA is modifying the paragraph ''Terminated'' to clarify that this category is to be used if a study has been terminated before completion, but a final study report has not yet been submitted to the agency.

FDA is requiring, as proposed, that annual status reports include the applicant's name, product name, application (NDA, ANDA, BLA, and supplement) number, date of postmarketing commitment, and the product approval date. However, in §§ 314.81(b)(2)(vii)(*a*)(*4*) and 601.70(b)(4), the agency is replacing the ''Date of product's U.S. approval'' section heading with the heading ''Date of U.S. approval of NDA, ANDA, or BLA.'' This change is being made to clarify identification of the postmarketing commitment because the product may be included in more than one application.

FDA is keeping all other sections of the status reports as proposed, because the agency believes that the information that is being requested in them is necessary to identify a postmarketing study commitment, to establish the progress of a postmarketing study commitment, or to identify the reasons for the failure of the applicant to conduct the study. The agency will use these status reports to review the progress of postmarketing study commitments and to meet its statutory reporting obligations (i.e., its report to Congress on this topic by October 1, 2001, and its annual report in the **Federal Register** on the status of postmarketing study commitments). FDA anticipates that preparation of a status report for a postmarketing study commitment will not be burdensome. Each status report should contain no more than one page of information that is readily available to the applicant.

(Comment 2) One comment said that much of the information required to be submitted in an NDA annual report under the proposed rule must already be submitted to an investigational new drug application (IND). The comment noted that the risk of duplicative reporting burdens is exacerbated by the fact that NDA and IND anniversary dates may differ and applicants may be required to collect and reconcile information for the same postmarketing studies twice a year. The comment recommended that FDA scale back the scope of the information required to be submitted to the NDA annual report and also permit applicants to reference pertinent sections of an IND and IND annual report in an NDA annual report.

FDA declines to permit applicants to reference their IND and IND annual reports in the status report section of NDA and BLA annual reports. Most of the information contained in these reports is different from the information submitted to the IND and is used by the agency for different purposes. FDA needs the information that is contained in a status report in the prescribed format to meet its statutory reporting obligations. FDA does not believe that preparation of status reports will be unduly burdensome for applicants, and the fact that no comments were submitted on the information collection provisions supports this conclusion.

B. Public Disclosure of Information

New §§ 314.81(b)(2)(vii)(*b*) and 601.70(e) require the agency to publicly disclose any information concerning a postmarketing study if the agency determines that the information is

necessary to identify the applicant or to establish the status of the study, including the reasons, if any, for failure to conduct, complete, and report the study. The proposal stated that information necessary to establish the status of a postmarketing study would include the study protocol, patient accrual rates, reports of unexpected suspected adverse drug reactions, and study results. The proposal also specified that FDA would not publicly disclose trade secrets, as defined in § 20.61 (21 CFR 20.61), or information, described in § 20.63 (21 CFR 20.63), the disclosure of which would constitute an unwarranted invasion of personal privacy.

(Comment 3) Three comments strongly objected to the public disclosure provisions of the proposed rule contending that such disclosure could potentially result in release of confidential and highly sensitive commercial information. One comment said that the ''proposed rule directly violates the limits set by FDAMA,'' when the proposed rule calls for the disclosure of the study protocol, patient accrual rates, reports of unexpected suspected adverse drug reactions, and study results. The comment claimed that the agency is incorrect when it asserts that this additional information is ''necessary to identify the applicant and to establish the status of a study.'' Another comment noted that there is an inconsistency in the content of the status reports section and the public disclosure sections of the proposed rule that needs clarification. The content of the status report section is limited to patient accrual and study status, whereas the public disclosure section states that the study protocol and study results will be made public.

The comments recommended that study protocols, reports of unexpected suspected adverse drug reactions, and results of the study not be publicly disclosed. One comment said that clinical protocols are highly proprietary in terms of design and analytical plan and that applicants should only be required to provide a general description of the study for public disclosure. Another comment said that with regard to disclosure of study results in an orphan drug exclusivity situation, the publication of detailed study results may allow competitors to strategically redesign clinical trials in an effort to nullify another company's market exclusivity. The comment also said that detailed knowledge of study results could also lead to potential disputes between competitors via negative advertising. The comment recommended that applicants only be required to provide a brief summary of the study results for public disclosure. Another comment said that disclosure of study results represents bad science because it is generally not appropriate to ''peek'' at results from a study before its scheduled completion. Another comment said that annual public disclosure of all reports of unexpected adverse drug reactions are inappropriate for epidemiological studies because no scientifically-based conclusions can be drawn when safety reports are reviewed out of context of the study population and without regard to the appropriate controls. However, the comment noted that if any new association is established between a product and a previously unknown adverse reaction, such information should be made public. Another comment noted that if a study is delayed because of low patient accrual rates, despite legitimate efforts to enroll subjects, information posted on a website could negatively affect the company and its ability to complete the commitment.

FDA has considered these comments and agrees that disclosure of the study protocol, reports of unexpected suspected adverse drug reactions, and the results of studies reported under §§ 314.81(b)(2)(vii) and 601.70 are not necessary to achieve the purposes of the rule or section 130 of FDAMA. Section 130 of FDAMA requires the agency to publicly disclose information pertaining to status reports if that information is necessary to identify the applicant and to establish the status of a study, including the reasons, if any, for failure to conduct, complete, and report the study. FDA has, therefore, decided to remove the following sentence from proposed §§ 314.81(b)(2)(vii)(*b*) and 601.70(e): ''Information necessary to establish the status of a postmarketing study includes the study protocol, patient accrual rates, reports of unexpected suspected adverse drug reactions, and study results.''

For purposes of public disclosure, the agency intends to release information that establishes the status of a study and that is contained in §§ 314.81(b)(2)(vii)(*a*)(*1*) through (b)(2)(vii)(*a*)(*9*) and 601.70(b)(1) through (b)(9) of the final rule. These sections do not call for study results and FDA does not believe that any information provided by applicants in these sections of a status report would be considered confidential commercial information. However, even if an applicant considers certain information in these sections to be confidential commercial information, section 130(a) of FDAMA would authorize FDA to release such information if it were necessary to identify the applicant or to establish the status of a study, including the reasons, if any, for failure to conduct, complete, and report the study. The agency has decided that a study protocol, study results, and reports of unexpected suspected adverse drug reactions are not information necessary to establish the status of the study. However, the agency expects to continue to receive study protocols and study results since that information is necessary for FDA to determine whether a study commitment has been satisfied. The agency also expects to continue to receive reports of unexpected suspected adverse drug reactions, which are required reports. Other laws, such as the Freedom of Information Act (FOIA), would determine whether the agency would release to the public study protocols, study results, and reports of unexpected suspected adverse drug reactions.

FDA believes that the number of patients who are enrolled in a postmarketing study is an important factor establishing the status of a study. Applicants would provide such information to FDA in status reports, and, under section 130 of FDAMA, patient accrual rates would be considered to be public information.

(Comment 4) One comment claimed that the proposed rule is contrary to FOIA and the Trade Secrets Act. The comment said that FOIA specifically exempts confidential commercial information from public disclosure under 5 U.S.C. 552(b)(4) (so-called ''FOIA Exemption 4'') and that the Trade Secrets Act makes it a crime for a Federal employee to disclose any information within the scope of FOIA Exemption 4, including confidential commercial information to the extent that the disclosure is not authorized by law (18 U.S.C. 1905). The comment further asserted that there is nothing in the legislative history of FDAMA to suggest that Congress intended to make public information that would otherwise be exempt from disclosure under FOIA, except to the very narrow extent necessary to identify a sponsor and establish the status of a study. The comment said that the only information that should be required to be disclosed should be basic information to identify the study and sponsor, and the standardized information on the status of a study (or, if applicable, a brief explanation of why a study was not conducted). The comment said that this is the only information that should be posted on FDA's website.

FDA disagrees with the comment because it does not believe that status reports would contain confidential commercial information. In any event,

section 130(a) of FDAMA requires the agency to disclose certain information from postmarketing study reports even if that information ordinarily would be considered confidential commercial information. Since section 130(a) of FDAMA requires disclosure, the disclosure would be authorized by law and not prohibited by the Trade Secrets Act. FDA will not disclose any information from postmarketing study reports that is considered a trade secret as defined in § 20.61(a) and section 301(j) of the act (21 U.S.C. 331(j)) or would constitute an unwarranted invasion of personal privacy as defined in § 20.63.

(Comment 5) Two comments wanted to know what information would be disclosed on FDA's website and what format would be used for this purpose. One of the comments asked if a company would have the opportunity to review information before it is posted on the website to ensure that confidential data are not disclosed. Another comment requested that an efficient procedure be established to identify the information that is disclosable. The comment said that applicants should be instructed to include a section in their postmarketing status reports that is specifically intended for public disclosure. The comment noted that this approach is consistent with that adopted recently by FDA for information provided by sponsors to advisory committees in connection with open advisory committee meetings. The comment also noted that if FDA disagrees with an applicant's designation of disclosable information, the agency could then consult with the applicant.

FDA intends to include information on its webpage that is provided to FDA by applicants in their status reports. In the proposed rule, FDA stated that the website will contain, at a minimum, the following information for each postmarketing study commitment: Name of the applicant, application number, product name, dosage form, product use category, type of study, commitment description, commitment date, projected study completion date, current status of commitment, applicant summary of status, annual report due date, and date annual report received. At this time, FDA intends to include this information on FDA's webpage, as well as the date the final study report is received by the agency. In the future, FDA may decide to add or remove types of information from the website or to revise the format. FDA intends to provide a suggested format for postmarketing reports and an example of what information will appear on the agency website in the guidance the agency is developing or on which the agency will solicit public comment. (See section I.C of this document.)

With regard to the submission of a publicly releasable version of the status report by applicants, the agency will not require such submissions at this time. FDA is considering recommending, in guidance, that applicants include with their status reports a publicly releasable version of the report. This version of the status report would facilitate FDA's transmission of information to its website.

(Comment 6) One comment said that the agency needs to clarify that public disclosure does not apply to chemistry, manufacturing, and controls (CMC) studies. Another comment said that the agency needs to clarify that public disclosure does not apply to the log of outstanding regulatory business section of approved NDA annual reports.

The rule has been clarified to require the status of CMC studies that the applicant has agreed to conduct to be reported under § 314.81(b)(2)(viii). FDA would not publicly disclose in its annual **Federal Register** report or website information concerning postmarketing study commitments submitted in NDA annual reports under §§ 314.81(b)(2)(viii) and 314.81(b)(2)(ix). FDA intends to limit information in the annual **Federal Register** report and website to information submitted in status reports under §§ 314.81(b)(2)(vii) and 601.70.

C. Scope of Proposed Rule—FDAMA 130 Studies for Drug and Licensed Biological Products

Annual reports submitted under § 314.81(b)(2) apply to human drug products with an approved NDA or ANDA. New § 601.70 applies to human licensed biological products that meet the definition of ''drug'' under the act; it would not apply to biological products that meet the definition of ''medical device'' under the act. Revised § 314.81(b)(2)(vii) and new § 601.70 require, under section 130 of FDAMA, status reports of postmarketing studies concerning clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology that are required by FDA (e.g., accelerated approval clinical benefit studies and pediatric studies) or that the applicant committed to conduct, in writing, either at the time of approval of an application for the drug product or licensed biological product or of a supplement to an application, or after approval of an application or a supplement.

(Comment 7) One comment requested that reporting on the status of nonclinical studies (e.g., preclinical) be made optional for § 601.70.

FDA disagrees with the comment. The agency is requiring that information be provided for postmarketing nonclinical toxicology studies because of their significance in assessing the safety of drug and licensed biological products.

(Comment 8) One comment said that FDA should set some reasonable limit on how far back in time it will require applicants to report on studies that they committed to conduct years before enactment of section 130 of FDAMA but that still remain open. The comment suggested that the agency could remove the status report requirement for a study commitment that was entered into more than 3 years ago.

FDA disagrees with the comment. Section 130 of FDAMA requires that the status of postmarketing study commitments, whether entered into before or after the date of enactment of FDAMA, be reported to FDA annually until the commitment is completed or terminated. Many clinical studies take several years to complete. Studies that applicants committed to conduct several years ago are only now coming to completion and will yield important information about the safety and effective use of the drug or biological product. The agency will monitor an applicant's submission of status reports under §§ 314.81(b)(2)(vii) and 601.70 for any postmarketing study commitment that the agency has formally tracked in agency postmarketing commitment data bases.

D. Scope of Proposed Rule—Other Studies for Drug Products

In § 314.81(b)(2)(viii), FDA proposed to require that status reports be submitted for any postmarketing study not included under § 314.81(b)(2)(vii) that is being performed by, or on behalf of, the applicant. The applicant was to provide the information prescribed under § 314.81(b)(2)(vii) for each of the postmarketing studies subject to reporting.

(Comment 9) Three comments requested that the agency remove this section from the regulations because section 130 of FDAMA only requires status reports for studies that a company has committed to FDA to perform. One of the comments said that, as an alternative, the agency could limit the studies in this section to those which the applicant committed to FDA that it would conduct.

FDA disagrees with the comment. The agency currently requires that the status of any postmarketing studies performed by, or on behalf of, the applicant be provided in NDA annual reports and

FDA will continue to require status reports for these studies. It was not the intent of this rule, however, to expand current reporting requirements for postmarketing studies reported under § 314.81(b)(2)(viii). In considering the comments received, FDA has decided that it is not necessary to prescribe the content and format for status reports under § 314.81(b)(2)(viii) and has removed this requirement. Section 314.81(b)(2)(viii) and (b)(2)(ix) are retained in this rule due to the reorganization of § 314.81(b)(2)(vii).

(Comment 10) Two comments requested that CMC studies be exempt from inclusion in proposed § 314.81(b)(2)(viii) because there is no purpose in providing such information in this section. One comment said that even though current § 314.81(b)(2)(vii) requires status reports for ''any'' postmarketing study, existing regulation and guidance have previously established a more narrow definition of the CMC reporting requirement. The comment explained that current § 314.81(b)(2)(iv) states that reports for CMC changes are only required for new information that may affect FDA's previous conclusions about the safety or effectiveness of the drug product and that the guidance for industry on ''Format and Content for the CMC section of an Annual Report'' specifies only the need to include stability data under current § 314.81(b)(2)(vii). The comment recommended that CMC study information be provided under current § 314.81(b)(2)(iv) so that all the information pertinent to the chemistry review would be consolidated into a single section. Another comment said that reporting the status of CMC studies is not pertinent and repeating this information under proposed § 314.81(b)(2)(viii) is redundant and unnecessary.

FDA disagrees in part with this comment. Section 314.81(b)(2)(vii) currently requires reporting of any postmarketing study. FDA's current guidance for industry states that data accumulated from ongoing stability studies should be included in § 314.81(b)(2)(vii). Therefore, it is clear from existing regulations and guidance that stability studies are to be reported under existing § 314.81(b)(2)(vii) (now § 314.81(b)(2)(viii) of the rule). These reports provide FDA with valuable information regarding the safety and efficacy of products, and FDA has decided to retain this requirement in the final rule. However, FDA has decided to modify § 314.81(b)(2)(viii) to clarify the reporting requirements for CMC studies. FDA will maintain a requirement for reporting data from all ongoing product stability studies including those that are being conducted without a postmarketing study commitment, (e.g., annual stability assessment performed in conformance with 21 CFR 211.166). For other types of CMC studies, FDA is revising § 314.81(b)(2)(viii) to require a status report for only those studies which the applicant has agreed to perform. This section now reads as follows:

Status of other postmarketing studies. A status report of any postmarketing study not included under paragraph (b)(2)(vii) of this section that is being performed by, or on behalf of, the applicant. A status report is to be included for any chemistry, manufacturing, and controls studies that the applicant has agreed to perform and for all product stability studies.

Information from other CMC studies, experiences, investigations, or tests that are not stability studies or the subject of a specific commitment but that provide new information that may affect FDA's previous decisions about product safety and efficacy will continue to be reported under § 314.81(b)(2)(iv).

E. Fulfillment of Commitments

FDA proposed at §§ 314.81(b)(2)(vii) and 601.70(b) that the status of postmarketing studies be submitted to the agency annually until FDA notifies the applicant, in writing, that the agency concurs with the applicant's determination that the study commitment has been fulfilled or that the study is either no longer feasible or would no longer provide useful information.

(Comment 11) Three comments requested that FDA specify the timeframe for agency review of a final study report and for notifying the applicant whether or not the postmarketing study commitment has been fulfilled or that a commitment is either no longer feasible to fulfill or would no longer provide useful information. One of the comments suggested a 90-day timeframe and another comment suggested a 60-day timeframe.

In general, FDA expects that final study reports for postmarketing study commitments will be submitted to the agency with a supplemental application to modify a product's labeling when the studies support such a change. When they are submitted in support of a supplement, FDA will review the submission under established review times for supplements. (For Prescription Drug User Fee Act (PDUFA) products, see letters from Secretary of Health and Human Services to the Chairman of the Committee on Commerce of the House of Representatives (143 Congressional Record H10886, November 13, 1997), and the Chairman of the Committee on Labor and Human Resources of the Senate (143 Congressional Record S12653, November 13, 1997)). If no supplemental application is submitted or a supplement is submitted for a product not covered by PDUFA, FDA will generally review the final study report and notify the applicant in writing within 1 year of receipt of the report regarding whether it considers the commitment to have been met.

(Comment 12) One comment said that the requirement to continue to submit status reports on terminated postmarketing studies until FDA considers that the study commitments have been fulfilled is too vague. The comment requested clarification of the criteria that the agency would use to deem a study fulfilled.

FDA will review final study reports and determine whether or not the study met the objectives of the commitment. Whether or not the objectives have been met will have to be determined on a case-by-case basis because of the variety of postmarketing study commitments. Once FDA completes its review of the final study report, it will notify the applicant, in writing, of the agency's conclusion. An applicant would be required to submit annual status reports to FDA until it receives written notification that the agency concludes that: (1) The study commitment has been met, or (2) the study is either no longer feasible or would no longer provide useful information.

FDA may conclude that the study is no longer feasible but that the commitment's objectives remain important and can be addressed through a study of modified design. In this case, the original study may be terminated with no further reporting once a new postmarketing study commitment and schedule are agreed upon.

FDA may conclude that even though a study was completed, it failed to meet the commitment objectives; or an applicant may terminate a study that FDA subsequently determines is feasible and would yield useful information. In these cases, the agency may ask the applicant to undertake another study to fulfill its commitment.

(Comment 13) One comment said that FDA's confirmation in writing that a study commitment has been fulfilled could reasonably be accommodated through addition of a suitable field in the Form FDA 2252 (Transmittal of Periodic Reports for Drugs for Human Use), which would be completed by FDA at the time that receipt of the annual report is acknowledged. From

that point on, the comment said that the status of the postmarketing commitment should be tracked under outstanding regulatory business. The comment noted that this suggestion, intended to reduce the administrative burden on FDA of acknowledging receipt of final study reports, would not remove the need for FDA to confirm in writing that they have evaluated the study report and concur with the applicant's conclusions or proposed action (e.g., submission and approval of a labeling supplement to accommodate study results).

FDA disagrees with this suggestion. The agency will not acknowledge that the postmarketing study commitment has been fulfilled until it has reviewed the final study report and concurs that the commitment has been met. Applicants found to have fulfilled their commitments will be notified in writing. In addition, this information will be acknowledged in the agency's data bases and website.

F. Annual Report Submission Date

Current § 314.81(b)(2) requires that an applicant submit an annual report each year within 60 days of the anniversary date of U.S. approval of the application. FDA proposed to require the same submission times at § 601.70(c) for annual progress reports of postmarketing study commitments entered into by applicants with licensed biological products.

(Comment 14) One comment said that, for postmarketing studies that are already underway and for which annual reports are already provided, applicants should be permitted to continue to use the annual reporting cycles that are already established. The comment noted that it submits annual reports based on the anniversary date of the study initiation rather than the anniversary date of U.S. approval.

Current § 314.81(b)(2) requires that NDA annual reports be submitted to the agency within 60 days of the anniversary date of approval of the application. FDA will continue to require that NDA annual reports be submitted within the same timeframe. Applicants would not be permitted to submit NDA or BLA annual reports based on the anniversary date of a study's initiation.

Many drug and licensed biological products have multiple postmarketing studies underway that were initiated on different dates. The submission of annual reports based on the date of study initiation would result in multiple reports in any given year, thereby unnecessarily increasing an applicant's reporting burden and complicating FDA's tracking and review of postmarketing study commitment reports. It is FDA's intent to minimize the reporting burden on industry by requiring only a single annual report for any NDA, ANDA, or BLA product. This single report allows applicants to submit status information on all studies and allows FDA reviewers to review and evaluate at one time the progress of all studies, some of which may be related.

G. Implementation Scheme—Effective Dates

FDA proposed that any final rule that may issue based on the proposed rule become effective 90 days after its date of publication in the **Federal Register**. Applicants that have entered into a commitment prior to November 21, 1997, to conduct a postmarketing study under proposed § 314.81(b)(2)(vii) or § 601.70 would be required, as mandated by FDAMA, to submit an initial report to FDA within 6 months after the effective date of any final rule that issued based on the proposed rule.

(Comment 15) One comment requested that FDA provide that the effective date of any final rule be 120 days after the date of publication of the rule in the **Federal Register**. The comment noted that, with the proposed 90-day effective date, an applicant could be required to submit an initial report 5 months following publication of the final rule, depending on the anniversary date of their products. The comment claimed that the 90-day effective date is not consistent with section 130 of FDAMA which indicates that applicants should have 6 months following the issuance of final regulations to submit initial reports on postmarketing study commitments. The comment recommended that the effective date be modified to ensure that all applicants will have at least 6 months to file reports under the new requirements.

FDA does not believe that section 130 of FDAMA requires the agency to give a period of 6 months after issuing a final rule for applicants to prepare a postmarketing study status report. Rather, section 130(a) of FDAMA requires all applicants, regardless of the anniversary date of the approval of their drug, to submit status information for postmarketing study commitments made prior to November 21, 1997, within 6 months of the final rule's issuance. This timely submission of information is necessary to allow FDA to meet its reporting obligation in providing Congress with an evaluation of industry's performance in meeting postmarketing commitment obligations and FDA's performance in reviewing those postmarketing study reports.

However, FDA has considered the comment and is revising the effective date to 120 days after the date of publication of the rule in the **Federal Register**. Although FDA anticipates the information required to complete an inital report on the progress of postmarketing studies is readily available to the applicant, the agency understands that some applicants may have a greater reporting burden than other applicants due to a larger number of postmarketing commitments. Revision of the effective date will give all applicants a minimum of 4 months to prepare an initial report on their postmarketing commitments. If an applicant chooses to submit the report up to 60 days after the anniversary date of the approval of the drug, the applicant will have 6 months in which to file an initial report.

Once the rule goes into effect, annual reports due on or after the effective date must meet the format and content requirements of this final rule. An applicant who has annual reports due on or after August 27, 2001, will be required to submit a special 6-month report for all commitments made prior to November 21, 1997. This one-time additional report is required if:

(1) The drug or biological product was approved before November 21, 1997;

(2) Postmarketing study commitments were made before November 21, 1997; and

(3) The next annual report is not due until August 27, 2001, or later.

(Comment 16) One comment requested that FDA remove the requirement to submit a separate initial report within 6 months of the effective date of the final rule for pre-FDAMA commitments. The comment asserted that these reports would contain data from a time interval of less than 1 year and that significant resources would be required to prepare such a report as well as for FDA to review the report, which, due to the limited data, would be of minimal value. Another comment said that there is little value in requiring submission of these separate reports and that the requirement should be fulfilled in the next annual report due for each product. The comment claimed that this would also be more compatible with collation and publication of the planned Annual Federal Register Report.

FDA does not accept this suggestion. Section 130(a) of FDAMA requires that an initial report on the progress of postmarketing commitments made prior to November 21, 1997, be submitted to FDA within 6 months of the agency issuing a final rule. Although some information on postmarketing studies may be included in annual reports for

new drugs submitted before the effective date of the final rule, these reports may not include all information necessary for FDA to evaluate a study's progress. Also, applicants of approved biological products may not have previously submitted study status information. FDA acknowledges that the special 6-month report may contain limited new data. However, the submission of that data, in the format required by §§ 314.81(b)(2)(vii) and 601.70(b), is necessary to allow FDA to respond in a timely manner to Congress as required in section 130(b) of FDAMA. Therefore, FDA maintains this one-time reporting requirement.

IV. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impact of this final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1966 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Regulatory Flexibility Act requires agencies to analyze whether a rule may have a significant impact on a substantial number of small entities and, if it does, to analyze regulatory options that would minimize the impact. Section 202 of the Unfunded Mandates Reform Act requires that agencies prepare a written statement of anticipated costs and benefits and before proposing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million (adjusted annually for inflation) in any one year.

The agency has determined that the final rule is not a significant action as defined in the Unfunded Mandates Reform Act, and will not have an effect on the economy that exceeds $100 million in any one year. The analysis below details FDA's estimate of the potential cost and the potential benefit of the rule. Based on FDA's analysis using available data, the agency does not anticipate that the rule will result in a significant impact on a substantial number of small entities.

A. Nature of Impact

Currently, applicants holding approved NDA's or ANDA's are required to submit annual reports to the agency that include information on the current status of any postmarketing studies of the drug product performed by, or on the behalf of, the applicant. Although the final rule prescribes the format for the required information, this requirement would add no new economic burden for the majority of NDA and ANDA applicants. About half of the applicants holding approved NDA's or ANDA's with outstanding postmarketing study commitments made prior to the enactment of FDAMA may incur a small cost the first year, if their annual report is due within the last 6 months after the effective date of issuance of the final rule and they must submit one initial report within the first 6 months after the effective date. FDA estimates that: (1) There will be approximately 116 such reports submitted; (2) each report will report on two postmarketing studies, on average; and (3) each report will require about 16 hours (or 8 hours per study) to complete. Assuming an average wage rate of $35 per hour, the estimated, one-time cost of this provision is $64,960.

Applicants with licensed biological products are currently required to submit information on postmarketing studies in pediatric populations in annual reports to the agency. These applicants will incur additional costs to comply with the requirements in this final rule. The agency estimates that about 33 applicants will submit postmarketing status reports (reporting on two postmarketing studies, on average) on approximately 43 approved BLA's annually. As the reporting requirements are not extensive and the information is readily accessible to the applicant, FDA estimates that establishments will require about 16 hours to complete the required information for each report (or 8 hours for each study). Assuming an average wage rate of $35 per hour, the estimated incremental cost of the annual reporting requirement will be $560 per report, for an industry total of $24,080 per year. As with applicants holding NDA's or ANDA's, a few applicants with licensed biological products with outstanding postmarketing study commitments may also incur an additional, one-time cost because they must submit their initial report within the first 6 months after the effective date of the final rule and an annual report within the last 6 months of the year. FDA estimates there will be approximately seven such reports, for a total one-time cost of about $4,000.

B. Small Business Impacts

The requirements in this final rule will not have a significant economic impact on a substantial number of small entities. The agency neither expects the final rule to result in an increased number of completed postmarketing studies nor believes that applicants will incur significantly increased costs from completing studies earlier than intended, as a result of the reporting, tracking, and disclosure activities implemented by the agency. Because affected applicants holding NDA's and ANDA's must currently submit annual reports to the agency, they already have procedures in place to monitor their postmarketing studies. The additional reporting requirement for applicants holding approved BLA's and the reformatting of the annual reports for applicants holding NDA's and ANDA's would be minimal. To simplify the reporting requirement further, however, the agency will publish a guidance for industry to aid applicants in preparing reports in the proper format (see section I.C of this document).

C. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies 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. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the order and, consequently, a federalism summary impact statement is not required.

VI. The Paperwork Reduction Act of 1995

This final rule contains information collection provisions that were reviewed by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), and that FDA invited the public to send comments to OMB. No comments were received by OMB on these provisions. A description of these provisions is shown below with an estimate of the annual reporting burden. Included in the estimate is the

time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

Title: Reporting the Status of Postmarketing Studies for Approved Human Drugs and Licensed Biological Products.

Description: Section 506B of the act provides FDA with additional authority for monitoring the progress of postmarketing studies that companies have made a commitment to conduct and also requires the agency to make the status of these studies publicly available.

Under section 506B(a) of the act, applicants that have committed to conduct a postmarketing study for an approved human drug or biological product must submit to FDA a report of the progress of the study or the reasons for the failure of the applicant to conduct the study. This report must be submitted within 1 year after the U.S. approval of the application and then annually until the study is completed or terminated. Under §§ 314.81(b)(2)(vii) and 601.70(b), information submitted in a status report would be limited to that which is needed to sufficiently identify each applicant that has committed to conduct a postmarketing study, the status of the study that is being reported, and the reasons, if any, for the applicant's failure to conduct, complete, and report the study.

Currently under § 314.81(b)(2), applicants holding an NDA or an ANDA must submit status reports on postmarketing studies for the approved human drug product as part of an annual report to FDA. The agency is amending § 314.81(b)(2)(vii) to specify information that must be included in status reports submitted under section 506B of the act (studies of clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology that are required by FDA or that an applicant commits, in writing, to conduct either at the time of approval of an application or a supplement to an application or after approval of an application or supplement). New § 314.81(b)(2)(viii) of the final rule requires status information on any postmarketing study commitments not reported under paragraph (b)(2)(vii) that are being performed by, or on behalf of, the applicant; and paragraph (b)(2)(ix) permits the applicant to list any open regulatory business with FDA concerning the drug product subject to the application. For licensed biological products, FDA is requiring applicants under § 601.70 to submit postmarketing status reports for studies of clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology that are required by FDA or that an applicant of a BLA commits to conduct, in writing, at the time of approval of an application or a supplement to an application or after approval of an application or a supplement. FDA is revising § 601.28(c) to require that the status of postmarketing pediatric studies described in new § 601.70 be reported under § 601.70 rather than § 601.28. This final rule is intended to provide FDA with specific procedures for monitoring the progress of postmarketing studies that companies have made a commitment, in writing, to conduct and also to permit the agency to make the status of these studies publicly available.

Description of Respondents: Applicants holding approved applications for human drugs and biological products that have committed to conduct postmarketing studies.

As required by section 3506(c)(2)(B) of the PRA, FDA provided an opportunity for public comment on the information collection requirements of the proposed rule (64 FR 67207). In accordance with the PRA, OMB reserved approval of the information collection burden in the proposed rule stating ''FDA shall assess comments received regarding information collection requirements contained in the proposed rule. These comments shall be addressed in the preamble to the final rule.'' No letters of comment on the information collection requirements were submitted to OMB.

Under current § 314.81(b)(2), applicants with approved NDA's and ANDA's for human drugs are required to submit to the agency two copies of the annual reports that must include information on the current status of any postmarketing study (OMB control No. 0910–0001).

New § 314.81(b)(2)(vii) expressly requires status information to be provided in a specific format as part of the status reports of postmarketing study commitments (clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology), a subpart of the annual report. Based on past experience, the agency estimates that each applicant holding an approved NDA or ANDA would expend an additional 8 hours to reformat the annual report. This is a one-time burden required under new § 314.81(b)(2)(vii). Based on the number of drug applicants in past years who have committed to conduct postmarketing studies, the agency estimates that this provision would apply to approximately 183 applicants and approximately 462 postmarketing studies.

Based upon information obtained from the Center for Biologics Evaluation and Research's computerized application and license tracking data base, the agency estimates that approximately 33 applicants with 43 approved BLA's have committed to conduct approximately 86 postmarketing studies (clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology) and would be required to submit an annual progress report on those postmarketing studies under § 601.70. Section 601.70 requires postmarketing studies status reports for the first time for all biological products. Previously, status reports were required only for postmarketing studies in pediatric populations. Based on past experience with reporting under § 314.81(b)(2), the agency estimates that approximately 8 hours annually are required for an applicant to gather, complete, and submit the appropriate information for each study (approximately two studies per report). Included in these 8 hours is the time necessary to initially format the status report.

Applicants holding NDA's, ANDA's, and BLA's whose anniversary date of U.S. approval of the application falls within the latter half of the year after the effective date of this final rule are required under section 506B of the act to submit an initial report to FDA for postmarketing studies committed to be conducted prior to November 21, 1997, within 6 months after the effective date of the final rule in addition to the reports required by the final rule. This information collection is a statutory requirement for which the final rule adds no additional burden other than prescribing the format. The burden of setting up the format is calculated under §§ 314.81(b)(2)(vii) and 601.70(b).

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	No. of Respondents	Annually Frequency per Response	Total Annual Response	Hours per Response	Total Hours
314.81(b)(2)(vii), (b)(2)(viii), and (b)(2)(ix) [2]	183	2.5	462	8	3,696
601.70(b) and (d)	33	2.6	86	8	688
Total					4,384

[1] There are no capital costs or operating and maintenance costs asociated with this collection of information.
[2] One-time burden for reformatting annual report.

The information collection requirements of the final rule have been submitted to OMB for review. Prior to the effective date of the final rule, FDA will publish a document in the **Federal Register** announcing OMB's decision to approve, modify, or disapprove the information collection requirements in the final rule. 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.

List of Subjects

21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

21 CFR Part 601

Administrative practice and procedure, Biologics, Confidential business information.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 314 and 601 are amended as follows:

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG

1. The authority citation for 21 CFR part 314 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 355a, 356, 356a, 356b, 356c, 371, 374, 379e.

2. Section 314.81 is amended by revising the introductory text of paragraph (b)(2), by revising paragraph (b)(2)(vii), and by adding paragraphs (b)(2)(viii) and (b)(2)(ix) to read as follows:

§ 314.81 Other postmarketing reports.

* * * * *

(b) * * *

(2)*Annual report.* The applicant shall submit each year within 60 days of the anniversary date of U.S. approval of the application, two copies of the report to the FDA division responsible for reviewing the application. Each annual report is required to be accompanied by a completed transmittal Form FDA 2252 (Transmittal of Periodic Reports for Drugs for Human Use), and must include all the information required under this section that the applicant received or otherwise obtained during the annual reporting interval that ends on the U.S. anniversary date. The report is required to contain in the order listed:

* * * * *

(vii) *Status reports of postmarketing study commitments.* A status report of each postmarketing study of the drug product concerning clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology that is required by FDA (e.g., accelerated approval clinical benefit studies, pediatric studies) or that the applicant has committed, in writing, to conduct either at the time of approval of an application for the drug product or a supplement to an application, or after approval of the application or a supplement. For pediatric studies, the status report shall include a statement indicating whether postmarketing clinical studies in pediatric populations were required by FDA under § 201.23 of this chapter. The status of these postmarketing studies shall be reported annually until FDA notifies the applicant, in writing, that the agency concurs with the applicant's determination that the study commitment has been fulfilled or that the study is either no longer feasible or would no longer provide useful information.

(*a*) *Content of status report.* The following information must be provided for each postmarketing study reported under this paragraph:

(*1*) *Applicant's name.*

(*2*) *Product name.* Include the approved drug product's established name and proprietary name, if any.

(*3*) *NDA, ANDA, and supplement number.*

(*4*) *Date of U.S. approval of NDA or ANDA.*

(*5*) *Date of postmarketing study commitment.*

(*6*) *Description of postmarketing study commitment.* The description must include sufficient information to uniquely describe the study. This information may include the purpose of the study, the type of study, the patient population addressed by the study and the indication(s) and dosage(s) that are to be studied.

(*7*) *Schedule for completion and reporting of the postmarketing study commitment.* The schedule should include the actual or projected dates for submission of the study protocol to FDA, completion of patient accrual or initiation of an animal study, completion of the study, submission of the final study report to FDA, and any additional milestones or submissions for which projected dates were specified as part of the commitment. In addition, it should include a revised schedule, as appropriate. If the schedule has been previously revised, provide both the original schedule and the most recent, previously submitted revision.

(*8*) *Current status of the postmarketing study commitment.* The status of each postmarketing study should be categorized using one of the following terms that describes the study's status on the anniversary date of U.S. approval of the application or other agreed upon date:

(*i*) *Pending.* The study has not been initiated, but does not meet the criterion for delayed.

(*ii*) *Ongoing.* The study is proceeding according to or ahead of the original schedule described under paragraph (b)(2)(vii)(*a*)(*7*) of this section.

(*iii*) *Delayed.* The study is behind the original schedule described under paragraph (b)(2)(vii)(*a*)(*7*) of this section.

(*iv*) *Terminated.* The study was ended before completion but a final study report has not been submitted to FDA.

(*v*) *Submitted.* The study has been completed or terminated and a final study report has been submitted to FDA.

(*9*) *Explanation of the study's status.* Provide a brief description of the status of the study, including the patient accrual rate (expressed by providing the number of patients or subjects enrolled to date, and the total planned enrollment), and an explanation of the study's status identified under paragraph (b)(2)(vii)(*a*)(*8*) of this section. If the study has been completed, include the date the study was completed and the date the final study report was submitted to FDA, as applicable. Provide a revised schedule, as well as the reason(s) for the revision, if the schedule under paragraph (b)(2)(vii)(*a*)(*7*) of this section has changed since the last report.

(*b*) *Public disclosure of information.* Except for the information described in this paragraph, FDA may publicly disclose any information described in paragraph (b)(2)(vii) of this section, concerning a postmarketing study, if the agency determines that the information is necessary to identify the applicant or to establish the status of the study, including the reasons, if any, for failure to conduct, complete, and report the study. Under this section, FDA will not publicly disclose trade secrets, as defined in § 20.61 of this chapter, or information, described in § 20.63 of this chapter, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(viii) *Status of other postmarketing studies.* A status report of any postmarketing study not included under paragraph (b)(2)(vii) of this section that is being performed by, or on behalf of, the applicant. A status report is to be included for any chemistry, manufacturing, and controls studies that the applicant has agreed to perform and for all product stability studies.

(ix) *Log of outstanding regulatory business.* To facilitate communications between FDA and the applicant, the report may, at the applicant's discretion, also contain a list of any open regulatory business with FDA concerning the drug product subject to the application (e.g., a list of the applicant's unanswered correspondence with the agency, a list of the agency's unanswered correspondence with the applicant).

PART 601—LICENSING

3. The authority citation for 21 CFR part 601 is revised to read as follows:

Authority: 15 U.S.C. 1451–1561; 21 U.S.C. 321, 351, 352, 353, 355, 356b, 360, 360c–360f, 360h–360j, 371, 374, 379e, 381; 42 U.S.C. 216, 241, 262, 263, 264; sec 122, Pub. L. 105–115, 111 Stat. 2322 (21 U.S.C. 355 note).

4. Section 601.28 is amended by revising the second sentence in paragraph (c) to read as follows:

§ 601.28 Annual reports of postmarketing pediatric studies.

* * * * *

(c) * * * The statement shall include whether postmarketing clinical studies in pediatric populations were required or agreed to, and, if so, the status of these studies shall be reported to FDA in annual progress reports of postmarketing studies under § 601.70 rather than under this section.

5. Subpart G, consisting of § 601.70, is added to part 601 to read as follows:

Subpart G—Postmarketing Studies

§ 601.70 Annual progress reports of postmarketing studies.

(a) *General requirements.* This section applies to all required postmarketing studies (e.g., accelerated approval clinical benefit studies, pediatric studies) and postmarketing studies that an applicant has committed, in writing, to conduct either at the time of approval of an application or a supplement to an application, or after approval of an application or a supplement. Postmarketing studies within the meaning of this section are those that concern:

(1) Clinical safety;

(2) Clinical efficacy;

(3) Clinical pharmacology; and

(4) Nonclinical toxicology.

(b)*What to report.* Each applicant of a licensed biological product shall submit a report to FDA on the status of postmarketing studies for each approved product application. The status of these postmarketing studies shall be reported annually until FDA notifies the applicant, in writing, that the agency concurs with the applicant's determination that the study commitment has been fulfilled, or that the study is either no longer feasible or would no longer provide useful information. Each annual progress report shall be accompanied by a completed transmittal Form FDA–2252, and shall include all the information required under this section that the applicant received or otherwise obtained during the annual reporting interval which ends on the U.S. anniversary date. The report must provide the following information for each postmarketing study:

(1) *Applicant's name.*

(2) *Product name.* Include the approved product's proper name and the proprietary name, if any.

(3) *Biologics license application (BLA) and supplement number.*

(4) *Date of U.S. approval of BLA.*

(5) *Date of postmarketing study commitment.*

(6) *Description of postmarketing study commitment.* The description must include sufficient information to uniquely describe the study. This information may include the purpose of the study, the type of study, the patient population addressed by the study and the indication(s) and dosage(s) that are to be studied.

(7) *Schedule for completion and reporting of the postmarketing study commitment.* The schedule should include the actual or projected dates for submission of the study protocol to FDA, completion of patient accrual or initiation of an animal study, completion of the study, submission of the final study report to FDA, and any additional milestones or submissions for which projected dates were specified as part of the commitment. In addition, it should include a revised schedule, as appropriate. If the schedule has been previously revised, provide both the original schedule and the most recent, previously submitted revision.

(8) *Current status of the postmarketing study commitment.* The status of each postmarketing study should be categorized using one of the following terms that describes the study's status on the anniversary date of U.S. approval of the application or other agreed upon date:

(i) *Pending.* The study has not been initiated, but does not meet the criterion for delayed.

(ii) *Ongoing.* The study is proceeding according to or ahead of the original schedule described under paragraph (b)(7) of this section.

(iii) *Delayed.* The study is behind the original schedule described under paragraph (b)(7) of this section.

(iv) *Terminated.* The study was ended before completion but a final study report has not been submitted to FDA.

(v) *Submitted.* The study has been completed or terminated and a final study report has been submitted to FDA.

(9) *Explanation of the study's status.* Provide a brief description of the status of the study, including the patient accrual rate (expressed by providing the number of patients or subjects enrolled to date, and the total planned enrollment), and an explanation of the study's status identified under paragraph (b)(8) of this section. If the study has been completed, include the date the study was completed and the date the final study report was submitted to FDA, as applicable. Provide a revised schedule, as well as the reason(s) for the revision, if the schedule under paragraph (b)(7) of this

section has changed since the previous report.

(c) *When to report.* Annual progress reports for postmarketing study commitments entered into by applicants shall be reported to FDA within 60 days of the anniversary date of the U.S. approval of the application for the product.

(d) *Where to report.* Submit two copies of the annual progress report of postmarketing studies to the Food and Drug Administration, Center for Biologics Evaluations and Research, Document Control Center (HFM–99), 1401 Rockville Pike, Rockville, MD 20852–1448.

(e) *Public disclosure of information.* Except for the information described in this paragraph, FDA may publicly disclose any information concerning a postmarketing study, within the meaning of this section, if the agency determines that the information is necessary to identify an applicant or to establish the status of the study including the reasons, if any, for failure to conduct, complete, and report the study. Under this section, FDA will not publicly disclose trade secrets, as defined in § 20.61 of this chapter, or information, described in § 20.63 of this chapter, the disclosure of which would constitute an unwarranted invasion of personal privacy.

Dated: October 13, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–27731 Filed 10–26–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. 94N–0380]

Gastroenterology and Urology Devices; Effective Date of the Requirement for Premarket Approval of the Implanted Mechanical/Hydraulic Urinary Continence Device; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of September 26, 2000 (65 FR 57726). The final rule requires the filing of a premarket approval application or a notice of completion of a product development protocol for the implanted mechanical/hydraulic urinary continence device, a generic type of medical device intended for the treatment of urinary incontinence. In the final rule, the effective date was stated incorrectly. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Nicole L. Wolanski, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2194.

SUPPLEMENTARY INFORMATION: In FR Doc. 00–24632 appearing on page 57726 in the **Federal Register** of September 26, 2000, the following correction is made:

1. On page 57726, in the second column, under the **EFFECTIVE DATE** caption, the date ''October 26, 2000'' is corrected to read ''September 26, 2000.''

Dated: October 19, 2000.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 00–27736 Filed 10–27–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 811

RIN 0701–AA62

Release, Dissemination, and Sale of Visual Information Materials

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising our rules on the Release, Dissemination, and Sale of Visual Information Materials to reflect current polices. These rules implement Air Force Instruction (AFI) 33–117, Visual Information Management, and apply to all Air Force activities.

EFFECTIVE DATE: December 1, 2000.

ADDRESSES: Mr. Raymond Dabney, HQ AFCIC/ITSM, 1250 Air Force Pentagon, Washington, DC 20330–1250, 703–588–6136.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Dabney, HQ AFCIC/ITSM, 703–588–6136.

SUPPLEMENTARY INFORMATION: The Department of the Air Force is revising our rules on the Release, Dissemination, and Sale of Visual Information Materials of the Code of Federal Regulations (CFRs) (32 CFR part 811) to reflect current policies. This part implements Air Force Instruction (AFI) 33–117, Visual Information Management, and apply to all Air Force activities. This part was published as a proposed rule in the **Federal Register** on December 28, 1999 (64 FR 72621, FR Doc. 99–33604). Comments were solicited for 60 days ending on February 28, 2000. No comments were received.

List of Subjects in 32 CFR Part 811

Archives and records, Motion pictures.

For the reasons stated in the preamble, the Department of the Air Force is revising 32 CFR Part 811 to read as follows:

PART 811—RELEASE, DISSEMINATION, AND SALE OF VISUAL INFORMATION MATERIALS

Sec.

811.1 Exceptions.
811.2 Release of visual information materials.
811.3 Official requests for visual information productions or materials.
811.4 Selling visual information materials.
811.5 Customers exempt from fees.
811.6 Visual information product/material loans.
811.7 Collecting and controlling fees.
811.8 Forms prescribed and availability of publications.

Authority: 10 U.S.C. 8013.

§ 811.1 Exceptions.

The regulations in this part do not apply to:

(a) Visual information (VI) materials made for the Air Force Office of Special Investigations for use in an investigation or a counterintelligence report. (See Air Force Instruction (AFI) 90–301, The Inspector General Complaints, which describes who may use these materials.)

(b) VI materials made during Air Force investigations of aircraft or missile mishaps according to AFI 91–204, Safety Investigations and Reports. (See AFI 90–301.)

§ 811.2 Release of visual information materials.

(a) Only the Secretary of the Air Force for Public Affairs (SAF/PA) clears and releases Air Force materials for use outside Department of Defense (DoD), according to AFI 35–205, Air Force Security and Policy Review Program.

(b) The Secretary of the Air Force for Legislative Liaison (SAF/LL) arranges the release of VI material through SAF/PA when a member of Congress asks for them for official use.

(c) The International Affairs Division (HQ USAF/CVAII) or, in some cases, the major command (MAJCOM) Foreign Disclosure Office, must authorize release of classified and unclassified

materials to foreign governments and international organizations or their representatives.

§ 811.3 Official requests for visual information productions or materials.

(a) Send official Air Force requests for productions or materials from the DoD Central Records Centers by letter or message. Include:

(1) Descriptions of the images needed, including media format, dates, etc.

(2) Visual information record identification number (VIRIN), production, or Research, development, test, and evaluation (RDT&E) identification numbers, if known.

(3) Intended use and purpose of the material.

(4) The date needed and a statement of why products are needed on a specific date.

(b) Send inquiries about motion picture or television materials to the Defense Visual Information Center (DVIC), 1363 Z Street, Building 2730, March ARB, CA 92518–2703.

(c) Send Air Force customer inquiries about still photographic materials to 11 CS/SCUA, Bolling AFB, Washington, DC 20332–0403 (the Air Force accessioning point).

(d) Send non-Air Force customers' inquiries about still photographic materials to the DVIC.

§ 811.4 Selling visual information materials.

(a) Air Force VI activities cannot sell materials.

(b) HQ AFCIC/ITSM may approve the loan of copies of original materials for federal government use.

(c) Send requests to buy:

(1) Completed, cleared, productions, to the National Archives and Records Administration, National Audiovisual Center, Information Office, 8700 Edgeworth Drive, Capitol Heights, MD 20722–3701.

(2) Nonproduction VI motion media to the DVIC. The center may sell other Air Force VI motion picture and television materials, such as historical and stock footage. When it sells VI motion media, the DVIC assesses charges, unless § 811.5 exempts the requesting activity.

(3) VI still media to the DoD Still Media Records Center (SMRC), Attn: SSRC, Washington, DC 20374–1681. When SMRC sells VI still media, the SMRC assesses charges, unless § 811.5 exempts the requesting activity.

§ 811.5 Customers exempt from fees.

Title III of the 1968 Intergovernmental Cooperation Act (42 U.S.C. 4201, 4231, and 4233) exempts some customers from paying for products and loans. This applies if the supplier has sufficient funds and if the exemption does not impair its mission. The requesting agency must certify that the materials are not commercially available. When requests for VI material do not meet exemption criteria, the requesting agency pays the fees. Exempted customers include:

(a) DoD and other government agencies asking for materials for official activities (see DoD Instruction 4000.19, Interservice, and Intergovernmental Support, August 9, 1995, and DoD Directive 5040.2, Visual Information (VI), December 7, 1987.

(b) Members of Congress asking for VI materials for official activities.

(c) VI records center materials or services furnished according to law or Executive Order.

(d) Federal, state, territorial, county, municipal governments, or their agencies, for activities contributing to an Air Force or DoD objective.

(e) Nonprofit organizations for public health, education, or welfare purposes.

(f) Armed Forces members with a casualty status, their next of kin, or authorized representative, if VI material requested relates to the member and does not compromise classified information or an accident investigation board's work.

(g) The general public, to help the Armed Forces recruiting program or enhance public understanding of the Armed Forces, when SAF/PA determines that VI materials or services promote the Air Force's best interest.

(h) Incidental or occasional requests for VI records center materials or services, including requests from residents of foreign countries, when fees would be inappropriate. AFI 16–101, International Affairs and Security Assistance Management, tells how a foreign government may obtain Air Force VI materials.

(i) Legitimate news organizations working on news productions, documentaries, or print products that inform the public on Air Force activities.

§ 811.6 Visual information product/material loans.

(a) You may request unclassified and classified copies of current Air Force productions and loans of DoD and other Federal productions from JVISDA, ATTN: ASQV–JVIA–T–AS, Bldg. 3, Bay 3, 11 Hap Arnold Blvd., Tobyhanna, PA 18466–5102.

(1) For unclassified products, use your organization's letterhead, identify subject title, PIN, format, and quantity.

(2) For classified products, use your organization's letterhead, identify subject title, personal identification number (PIN), format, and quantity. Also, indicate that either your organization commander or security officer, and MAJCOM VI manager approve the need.

(b) You may request other VI materials, such as, still images and motion media stock footage, from DVIC/OM–PA, 1363 Z Street, Building 2730, March ARB, CA 92518–2703.

§ 811.7 Collecting and controlling fees.

(a) The DoD records centers usually collect fees in advance. Exceptions are sales where you cannot determine actual cost until work is completed (for example, television and motion picture services with per minute or per footage charges).

(b) Customers pay fees, per AFR 177–108, Paying and Collecting Transactions at Base Level, with cash, treasury check, certified check, cashier's check, bank draft, or postal money order.

§ 811.8 Forms prescribed and availability of publications.

(a) AF Form 833, Visual Information Request, AF Form 1340, Visual Information Support Center Workload Report, DD Form 1995, Visual Information (VI) Production Request and Report, DD Form 2054–1, Visual Information (VI) Annual Report, and DD Form 2537, Visual Information Caption Sheet are prescribed by this part.

(b) Air Force publications and forms referenced in this part are available from NTIS, 5285 Port Royal Road, Springfield, VA 22161 or online at http://www.afpubs.hq.af.mil. DoD publications are available at http://www.defenselink.mil/pubs.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 00–27021 Filed 10–27–00; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Parts 811a and 813

RIN 0701–AA63

Visual Information Documentation Program

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising our rules on the Visual Information Documentation Program of the Code of Federal Regulations (CFRs) to reflect current polices. These rules

implement Air Force Instruction (AFI) 33–117, Visual Information Management, and apply to all Air Force activities.

EFFECTIVE DATE: December 1, 2000.

ADDRESSES: Submit comments to Mr. Raymond Dabney, HQ AFCIC/ITSM, 1250 Air Force Pentagon, Washington, DC 20330–1250, 703–588–6136.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Dabney, HQ AFCIC/ITSM, 703–588–6136.

SUPPLEMENTARY INFORMATION: The Department of the Air Force is redesignating 32 CFR part 811a as 32 CFR part 813 and revising it to reflect current policies. This part implements AFI 33–117, Visual Information Management, and applies to all Air Force activities. This part was published as a proposed rule in the **Federal Register** on January 5, 2000 (65 FR 419, FR Doc. 00–235). Comments were solicited for 60 days ending on March 6, 2000. No comments were received.

List of Subjects in 32 CFR Parts 811a and 813

Archives and records, Motion pictures.

PART 811a—[REDESIGNATED AS PART 813]

For the reasons set forth in the preamble, the Department of the Air Force is redesignating 32 CFR part 811a as 32 CFR part 813 and revising it to read as follows:

PART 813—VISUAL INFORMATION DOCUMENTATION PROGRAM

Sec.

813.1 Purpose of the visual information documentation (VIDOC) program.
813.2 Sources of VIDOC.
813.3 Responsibilities.
813.4 Combat camera operations.
813.5 Shipping or transmitting visual information documentation images.
813.6 Planning and requesting combat documentation.
813.7 Readiness reporting.

Authority: 10 U.S.C. 8013.

§ 813.1 Purpose of the visual information documentation (VIDOC) program.

Using various visual and audio media, the Air Force VIDOC program records important Air Force operations, historical events, and activities for use as decision making and communicative tools. VIDOC of Air Force combat operations is called COMCAM documentation. Air Force publications are available at NTIS, 5285 Port Royal Road, Springfield, VA 22161 or online at http://www.afpubs.hq.af.mil. DoD publications are available at http://www.defenselink.mil/pubs.

§ 813.2 Sources of VIDOC.

Primary sources of VIDOC materials include:

(a) HQ AMC active and reserve combat camera (COMCAM) forces, both ground and aerial, whose primary goal is still and motion media documentation of Air Force and air component combat and combat support operations, and related peacetime activities such as humanitarian actions, exercises, readiness tests, and operations.

(b) Visual information forces with combat documentation capabilities from other commands: HQs ACC, AETC, AFRES, and AFSPACECOM.

(c) Communications squadron base visual information centers (BVISCs).

(d) Air Digital Recorder (ADR) images from airborne imagery systems, such as heads up displays, radar scopes, and images from electro-optical sensors carried aboard aircraft and weapons systems.

(e) Photography of Air Force Research, Development, Test & Evaluation (RDT&E) activities, including high speed still and motion media optical instrumentation.

§ 813.3 Responsibilities.

(a) HQ AFCIC/ITSM:

(1) Sets Air Force VIDOC policy.

(2) Oversees United States Air Force (USAF) COMCAM programs and combat readiness.

(3) Makes sure Air Force participates in joint actions by coordinating with the Office of the Secretary of Defense staff, Joint Chiefs of Staff (JCS), executive departments, and other branches of the United States Government.

(4) Approves use of Air Force COMCAM forces in non-Air Force activities.

(b) Air components:

(1) Manage air component COMCAM and visual information support within their areas of responsibility. Documents significant events and operations for theater and national-level use.

(2) Sets requirements for COMCAM and VI support. Includes requirements in operations plans (OPLAN) force lists, concept plans (CONPLAN), operations orders (OPORD), and similar documents. See Air Force Manual (AFMAN) 10–401, Operation Plan and Concept Plan Development and Implementation.

(3) Coordinate with MAJCOM VI managers to plan and source VIDOC forces for war, contingencies, and exercises.

(4) Provide input (VI and COMCAM requirements) to HQ AMC/SCMV, 203 West Losey Street, Room 3180, Scott AFB, IL 62225–5223, as required to develop the annual VI Exercise Support Plan. Include requirements to exercise VI forces to refine operational procedures and meet defined objectives.

(c) HQ AMC:

(1) Provides primary Air Force ADR theater support to the air component commanders.

(2) Maintains a deployable theater support Unified Transportation Command (UTC) to manage ADR requirements above the aviation wing level. This includes the gathering, editing, copying, and distribution of ADR images from combat aviation squadrons for operational analysis, bomb damage assessment, collateral intelligence, training, historical, public affairs, and other needs.

(3) Sets combat training standards and develops programs for all Air Force COMCAM personnel (includes both formal classroom and field readiness training).

(4) Coordinates and meets COMCAM needs in war, operations, and concept plans.

(5) Provides the Air Force's primary COMCAM capability and assists air component and joint commands with deliberate and crisis action planning for USAF's COMCAM assets.

(6) Provides component and theater commands COMCAM planning assistance and expertise for contingencies, humanitarian actions, exercises, and combat operations.

(7) Acts as manpower and equipment force packaging (MEFPAK) manager for COMCAM UTCs.

(8) Funds HQ AMC COMCAM personnel and equipment for contingency or wartime deployments. (The requester funds temporary duty and supply costs for planned events, such as non-JCS exercises and competitions.)

(9) Develops and monitors the annual Air Force-wide VI Exercise Support Plan for the Air Staff, with assistance from air components and supporting MAJCOMs. (Use criteria contained in § 813.4(e)(1) and provide equitable deployment opportunity for tasked commands' VI resources.)

(d) MAJCOM VI managers:

(1) Plan and set policy for documenting activities of operational, historical, public affairs, or other significance within their commands.

(2) Train and equip VIDOC forces to document war, contingencies, major events, Air Force and joint exercises, and weapons tests.

(3) Make sure COMCAM and BVISC forces meet their wartime tasking and identify and resolve deficiencies. Refer

significant deficiencies and problems and proposed resolution to HQ AFCIC/ITSM.

(4) Allow documentation of significant Air Force activities and events, regardless of their sensitivity or classification. Protect materials as the supported command directs. Safeguard classified images or handle them according to Department of Defense (DoD) Directive 5200.1, DoD Information Security Program, June 7, 1982, with Changes 1 and 2, and AFI 31–401, Information Security Program Management. The authority in charge of the event or operation approves documentation distribution.

(5) Update UTC availability in MAJCOM information systems.

(6) Assist Air Force Operations Group, in identifying the command's capability to support COMCAM and VI requirements.

(7) Provide inputs to HQ AMC/SCMV for the annual VI Exercise Support Plan for JCS exercises.

(8) Make sure units that have deployable VI teams have Status of Resources and Training System (SORTS) reportable designed operational capability (DOC) statements that accurately reflect their mission and taskings.

(9) Develop and oversee measurements, such as operational readiness inspection criteria, to evaluate VI force readiness at DOC-tasked units.

§ 813.4 Combat camera operations.

(a) Air Force COMCAM forces document Air Force and air component activities.

(b) The supported unified command or joint task force commander, through the air component commander (when assigned), controls Air Force COMCAM forces in a joint environment. If an air component is assigned, the air component normally manages documentation of its operations. Air Force COMCAM and visual information support for joint operations will be proportionate to USAF combat force participation. In airlift operations, HQ AMC may be the supported command.

(c) During contingencies, exercises, and other operations, the Air Force provides its share of Unified Command headquarters COMCAM and visual information support forces for still photographic, motion media, graphics, and other VI services.

(d) COMCAM and VI forces take part in Air Force and joint exercises to test procedures and over-all readiness. COMCAM and VI forces also provide VI products to command, operations, public affairs, historical, and other significant customers.

(e) Sourcing COMCAM forces. See AFMAN 10–401 for specific procedures.

(1) When VI support teams are required, the lead wing's VI UTC deploys as primary, whenever possible. If lead wing VI support is not available, the providing command sources the requirement from other active or reserve component forces, or coordinates with other MAJCOMs for assistance.

(2) Air Force VI personnel who assist supported commands in determining COMCAM and VI requirements and sourcing consider the total USAF VI community as a resource. Planners consider employing USAF deployable VI support teams, augmentation combat documentation teams from AFSPACECOM, AETC, and ACC, as well as active and reserve COMCAM teams.

§ 813.5 Shipping or transmitting visual information documentation images.

(a) *COMCAM images.* Send COMCAM images to the DoD Joint Combat Camera Center, Room 5A518, Pentagon, Washington, DC 20330–3000, by the fastest means possible, following the approval procedures that on-scene and theater commanders set.

(b) *Other non-COMCAM images.* After use, send significant non-COMCAM images to the appropriate DoD media records center through the Air Force record center accessioning point.

(c) *Identification of VIDOC materials.* Clearly identify all VIDOC and COMCAM material with slates, captions, and cover stories.

§ 813.6 Planning and requesting combat documentation.

(a) *Planned combat documentation.* Air components identify documentation needs as early as possible in OPLANs, CONPLANs, and OPORDs and send copies of these plans to HQ AMC/SCMV, 203 West Losey Street, Room 3180, Scott AFB, IL 62225–5223. Include the contact for planning and support.

(b) *Activity documentation.* MAJCOMs may request that HQ AMC document their activities. Send information copies of requests to HQ AFCIC/ITSM, 1250 Air Force Pentagon, Washington, DC 20330–1250, and HQ AMC/SCMV. When a supporting component command operationally controls HQ AMC COMCAM units, other organizations that need support must coordinate requests with the supported command.

(c) *Unplanned combat documentation.* Send short notice requests to the supported operational commander as soon as possible, with information copies to HQ AFCIC/ITSM and HQ AMC/SCMO. Identify end product requirements, media formats, and deadlines.

(d) *Humanitarian, disaster relief, and contingencies.* Theater commanders normally task the supporting component through the Joint Operation Planning and Execution System, that in turn, requests support from HQ AMC. HQ USAF can directly task HQ AMC to document humanitarian, disaster relief, or contingency activities if it does not receive other tasking(s). In these cases, coordinate with the supported unified command.

§ 813.7 Readiness reporting.

All Air Force units assigned a DOC statement report readiness status through the SORTS process. See AFI 10–201, Status of Resources and Training System, for specific information and reporting criteria.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 00–27020 Filed 10–27–00; 8:45 am]

BILLING CODE 5001–05–U

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201 and 256

[Docket No. 2000–4 CARP CRA]

Adjustment of Cable Statutory License Royalty Rates

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office of the Library of Congress is publishing final regulations governing the adjustment of the royalty rates for the cable statutory license.

DATES: These regulations are effective July 1, 2000.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or William J. Roberts, Jr., Senior Attorney for Compulsory Licenses, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax (202) 252–3423.

SUPPLEMENTARY INFORMATION:

I. Background

Section 111 of the Copyright Act, 17 U.S.C., creates a statutory license for cable systems that retransmit to their subscribers over-the-air broadcast signals. Royalty fees for this license are calculated as percentages of a cable system's gross receipts received from

subscribers for receipt of broadcast signals. A cable system's individual gross receipts determine the applicable percentages. These percentages, and the gross receipts limitations, are published in 37 CFR part 256 and are subject to adjustment at five-year intervals. 17 U.S.C. 801(b)(2)(A) & (D). This was a window year for such an adjustment.

The Library received two petitions for a rate adjustment and published a **Federal Register** notice seeking comment on these petitions and directed interested parties to file a Notice of Intent to Participate in a Copyright Arbitration Royalty Panel (''CARP'') proceeding. 65 FR 10564 (February 28, 2000). The Library also designated a 30-day period to negotiate a settlement as to adjustment of the rates. 37 CFR 251.63(a). The Library extended the negotiation period on two separate occasions in Orders dated May 15, 2000, and June 5, 2000. The extensions proved to be successful, as the Library received a joint proposal to adjust the cable royalty fees and the gross receipts limitations.

Pursuant to § 251.63(b) of the CARP rules, the Library published in the **Federal Register** the proposed adjustments to the percentages of gross receipts paid by cable systems, and the gross receipts limitations. 65 FR 54984 (September 12, 2000). Section 251.63(b) provides that the Library ''may adopt the rate embodied in the proposed settlement without convening an arbitration panel, provided that no opposing comment is received by the Librarian [of Congress] from a party with an intent to participate in a CARP proceeding.'' 37 CFR 251.63(b). No comments or Notices of Intent to Participate were received, enabling publication of today's final regulations adopting the proposed settlement.

The regulations take effect on July 1, 2000, which means that the new cable rates, and the gross receipts limitations, are applicable to the second accounting period of 2000 and thereafter.

List of Subjects

37 CFR Part 201

Copyright, Procedures.

37 CFR Part 256

Cable television, Royalties.

For the reasons set forth in the preamble, the Library amends 37 CFR parts 201 and 256 as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 201.17 [Amended]

2. In § 201.17:

a. In paragraph (d)(2), remove ''$292,000'' each place it appears and add ''$379,600'' in its place.

b. In paragraph (e)(12), remove ''$75,800'' and add ''$98,600'' in its place.

c. In paragraph (g)(2)(ii), remove ''.893'' and add ''.956'' in its place.

PART 256—ADJUSTMENT OF ROYALTY FEE FOR CABLE COMPULSORY LICENSE

3. The authority citation for part 256 continues to read as follows:

Authority: 17 U.S.C. 702, 802.

§ 256.2 [Amended]

4. In § 256.2:

a. In paragraph (a), introductory text, remove the phrase ''the first semiannual accounting period of 1985'' and add the phrase ''the second semiannual accounting period of 2000'' in its place.

b. In paragraph (a)(1), remove ''.893'' and add ''.956'' in its place.

c. In paragraph (a)(2), remove ''.893'' and add ''.956'' in its place.

d. In paragraph (a)(3), remove ''.563'' and add ''.630'' in its place.

e. In paragraph (a)(4), remove ''.265'' and add ''.296'' in its place.

f. In paragraph (b), introductory text, remove the phrase ''the first semiannual accounting period of 1985'' and add the phrase ''the second semiannual accounting period of 2000'' in its place.

g. In paragraph (b)(1), remove ''$146,000'' each place it appears and add ''$189,800'' in its place, and remove ''$5,600'' and add ''$7,400'' in its place.

h. In paragraph (b)(2), remove ''$146,000'' each place it appears, and add ''$189,800'' in its place, and remove ''$292,000'' each place it appears and add ''$379,600'' in its place.

Dated: October 20, 2000.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 00–27713 Filed 10–27–00; 8:45 am]

BILLING CODE 1410–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6859–8]

National Oil and Hazardous Substances Pollution Contingency; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deletion of the White Farm Equipment Landfill Superfund site (site) from the National Priorities List (NPL).

SUMMARY: The EPA Region VII announces the deletion of the White Farm Equipment Landfill site, Charles City, Iowa from the NPL. The NPL is appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. The EPA and the state of Iowa have determined that the site poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA are appropriate.

EFFECTIVE DATE: October 30, 2000.

FOR FURTHER INFORMATION CONTACT: Catherine Barrett, Remedial Project Manager, U.S. EPA, Region VII, Superfund Division, 901 North 5th Street, Kansas City, Kansas 66101, telephone (913) 551–7704, fax (913) 551–7063.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: White Farm Equipment Landfill site, Charles City, Iowa.

A Notice of Intent to Delete for this site was published in the **Federal Register** on September 7, 2000 (65 FR 54190). The closing date for comments on the Notice of Intent to Delete was October 10, 2000. No comments were received, therefore, EPA has not prepared a Responsiveness Summary. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for fund-finances remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or

impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 18, 2000.

Martha Steincamp,

Acting Regional Administrator, Region 7.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B [Amended]

2. Table 1 of appendix B to part 300 is amended by deleting the White Farm Equipment Co. Dump, Charles City, Iowa site.

[FR Doc. 00–27578 Filed 10–27–00; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2300; MM Docket No. 97–26, RM–8968, RM–9089, RM–9090; MM Docket No. 97–91, RM–8854, RM–9221]

Radio Broadcasting Services; Detroit, Howe, Jacksboro, Lewisville, Gainesville, Robinson, Corsicana, Mineral Wells TX, Antlers, Hugo, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document dismisses an Application for Review filed by Jerry Snyder and Associates, an Application for Review filed by Metro Broadcasters-Texas, Inc., and a Petition for Partial Reconsideration filed by Hispanic Broadcasting Corporation. This document also grants a Request for Immediate Issuance of Erratum filed by Great Plains Radiocasting to the extent of removing Channel 294C2 at Detroit, Texas. All of these pleadings were directed to the *Report and Order* in this proceeding. 63 FR 45182, August 25, 1997.

DATES: Effective November 28, 2000.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* adopted September 27, 2000, and released October 6, 2000. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, 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) 857–3805, 1231 M 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. 154, 303, 334, 336.

2. Section 73.202(b), the Table of FM Allotments, under Texas, is amended by removing Channel 294C2, Detroit.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 00–27745 Filed 10–27–00; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–00–8191]

RIN 2127–AH94

Federal Motor Vehicle Safety Standards; Compressed Natural Gas Fuel Container Integrity

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule, petitions for reconsideration.

SUMMARY: In response to petitions for reconsideration, this agency is amending the bonfire test procedures in the Federal motor vehicle safety standard concerning compressed natural gas fuel container integrity. The amendments will facilitate the testing of compressed natural gas containers without adversely affecting safety.

DATES: Effective date: The amendment in this document becomes effective November 29, 2000.

Petitions for reconsideration: Any petition for reconsideration of this rule must be received by NHTSA no later than December 14, 2000.

ADDRESSES: Petitions for reconsideration of this rule should refer to the above mentioned docket number and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: *For non-legal issues:* Mr. Charles Hott, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (Telephone 202–366–0247).

For legal issues: Mr. Steve Wood, NCC–20, Assistant Chief Counsel for Rulemaking, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–2992).

SUPPLEMENTARY INFORMATION:

I. Regulatory Background

On September 26, 1994, NHTSA published a final rule establishing Standard No. 304, *Compressed Natural Gas Fuel Container Integrity*, which specifies tests and performance requirements regarding the durability, strength, and pressure relief of compressed natural gas (CNG) fuel containers. (59 FR 49010) The September 1994 final rule also specified labeling requirements for CNG fuel containers. The CNG fuel container requirements are based on specifications in ANSI/NGV2, a voluntary industry standard addressing CNG fuel containers which was adopted by the American National Standards Institute (ANSI).[1] One of the performance tests involves subjecting containers to a bonfire test to evaluate their pressure relief characteristics.

NHTSA decided in the September 1994 final rule to specify that No. 2 diesel fuel be used to generate the fire in the bonfire test. The agency indicated that it was specifying No. 2 diesel fuel on an interim basis because of its awareness that environmental problems result from use of this fuel. The agency stated that it would study whether other fuels could be used for the bonfire test.

[1] NGV2 was developed by an industry working group that included container manufacturers, CNG users, and utilities.

On December 19, 1994, NHTSA published a supplemental notice of proposed rulemaking (SNPRM) that proposed, among other things, to amend the bonfire test procedures and conditions to allow alternative fuel types. (59 FR 65299) Specifically, the agency proposed that the bonfire test be conducted with any fuel that generates a flame temperature equivalent to that of No. 2 diesel fuel (*i.e.*, any fuel that generates a flame temperature of 850 to 900 degrees Celcius (C)). NHTSA requested comments about the appropriateness of using flame temperature to define equivalence among fuel types.

Commenters addressing the issue of bonfire fuel generally supported the proposal. EDO Corporation and Brunswick Composites favored allowing any fuel as long as the specified temperature is maintained. Ford Motor Company commented that the proposal was appropriate, provided the flame characteristics of different fuels are similar. AGA/NGVC also supported the proposal.

On November 24, 1995, NHTSA published a final rule that amended the bonfire test procedures and announced its decision to terminate rulemaking on additional performance requirements for CNG containers that the agency had previously proposed. (60 FR 57943) Specifically, section S8.3.6 was amended to allow the bonfire test to be conducted using any fuel that generates a flame temperature between 850 and 900 degrees C for the duration of the test. The agency stated that the amendment provided greater flexibility in conducting the bonfire test. It further stated that the amendment eliminated a provision that specified the use of a fuel that posed environmental problems.

II. Petitions for Reconsideration

NHTSA received petitions for reconsideration from the American Automobile Manufacturers Association (AAMA), Ford, Consumers Gas, Powertech (a research and development laboratory), and CNG container manufacturers, including NGV Systems, Pressed Steel Tank (PST), and Lincoln Composites (Lincoln). The petitioners requested that NHTSA amend Standard No. 304 with respect to the requirements for labeling CNG containers and the bonfire test procedures. In a final rule published September 6, 1996, the agency responded to issues associated with the labeling of CNG containers. (61 FR 47086) In today's notice, NHTSA responds to the issues associated with the bonfire test.

Lincoln, Powertech, and NGV Systems stated that the bonfire test procedures in S8.3.6 are not feasible. Section S8.3.6 states that ''The fire is generated by any fuel that maintains a flame temperature between 850 and 900 degrees C for the duration of the test, as verified by each of the three thermocouples in S8.3.2 or S8.3.3.'' NGV Systems provided test data that indicate that the thermocouple temperatures reached during a bonfire test cannot be verified under the procedures specified in the final rule because of variability in the testing. Lincoln recommended that the agency adopt the 1996 edition of NGV2, which requires that two of the three thermocouples average 590 degrees C (1100 degrees F) over any one-minute interval (except that there would be no temperature requirements if the container vents within five minutes of igniting the fire). Lincoln did not explain why this temperature, which is much lower than the initial requirement of 850–900 degrees, would be sufficient. PST stated that because thermocouples on the container do not register temperatures as high as 850 C and are not constant within the 50 C range during the test, diesel fuel should be specified.

Powertech requested that NHTSA harmonize its requirement with the International Standards Organization's (ISO) proposed standard (CD 11439) and the Canadian Standards Associations' proposed standard (B51–95 (part 2)). Both proposed standards are consistent with the 1996 edition of NGV2 which specifies a minimum fire temperature of 590 degrees C using a thermocouple that is placed directly below the container and is shielded from direct flame impingement. These organizations did not establish a maximum test temperature because of the difficulty in precisely controlling the large-scale fire test conditions. In addition to recommending the adoption of NGV2's bonfire temperature, Lincoln recommended rewording the entire bonfire test procedure in FMVSS No. 304 to make it consistent with the 1996 edition of NGV2. That company further stated that if its recommendation were not accepted, then the bonfire test procedures of the standard should be withdrawn and that the issue of the bonfire procedures should be revisited after NGV2 is completed.

III. NHTSA Decision

After reviewing the petitions and other available information, NHTSA has decided to amend the bonfire test procedures to be consistent with the ANSI/NGV2 industry standard published in June 1998. That standard specifies that, within five minutes of ignition, the average temperature of two of the thermocouples must be not less than 430 degrees C over each one minute interval for the duration of the test, beginning 5 minutes after the ignition of the fire and ending 20 minutes after ignition. It also calls for placement of three thermocouples one inch below the CNG container, and specifies that temperatures be recorded every 30 seconds after the ignition of the fire. In other words, any two of the three thermocouples must have an average temperature of not less than 430 degrees C over a 60-second interval, *i.e.*,

$$\frac{1}{2}\left[\left(\frac{T_{High\ 1}+T_{High\ 2}}{2}\right)_{@\ time\ 30\ sec}+\left(\frac{T_{High\ 1}+T_{High\ 2}}{2}\right)_{@\ time\ 60\ sec}\right]\geq 430\ ^{o}C$$

These test procedures will facilitate the testing of CNG containers in several ways, while maintaining the level of safety currently required by Standard No. 304. First, eliminating the current narrow 50 degree C temperature range will make it easier to conduct compliance tests consistent with the temperature specifications of the standard. Data submitted by the petitioners that indicate that the final rule's bonfire test procedures were not feasible because the petitioners could not maintain the temperature specified in the 1995 final rule. Second, specifying that the thermocouples will be placed so that they are suspended below the CNG containers, instead of attached to them as is currently specified in the standard, will increase their accuracy in measuring the flame temperature. Third, specifying a minimum average temperature for the thermocouples will facilitate the use of any type of fuel that can be used to generate the needed heat for the bonfire tests. The temperature specified in the

1995 final rule is the flame temperature for diesel fuel, 850–900 degrees C. This is not practical because the container must reach the flame temperature of the fuel that is burning. At such high temperatures, the CNG container material may be destroyed.

NHTSA's decision to pattern the bonfire test procedures after ANSI/NGV2 is consistent with the National Technology Transfer and Advancement Act (NTTAA), which generally requires Federal agencies to evaluate and use existing voluntary consensus standards [2] in their regulatory activities unless doing so would be inconsistent with applicable law (*e.g.*, the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical; *see* section 12(d) of Pub. L. 104–113. The agency believes that NGV2 is suitable and consistent with the agency's own statutory mandate to be practicable and meet the need for safety. Accordingly, NHTSA has revised the bonfire test procedures to be consistent with the June 1998 version of the ANSI standard.

Technical Amendment

In addition, NHTSA is making a technical amendment to the *Application* section (S3) to state explicitly that Standard No. 304 applies to ''each passenger car, multipurpose passenger vehicle, truck, and bus that uses CNG as a motor fuel and to each container designed to store CNG as motor fuel on-board any motor vehicle.'' While the standard's applicability is stated in S6.1 and S6.2, it was not fully stated in S3.

IV. Rulemaking Analyses and Notices

A. Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' Further, this action has been determined to be ''nonsignificant'' under the Department of Transportation's regulatory policies and procedures. The agency has decided not to prepare a Final Regulatory Evaluation (FRE) because the impacts of these amendments are so minimal as not to warrant preparation of a full regulatory evaluation. The amendments in today's final rule make the bonfire test conditions consistent with a voluntary industry standard. Since the industry is already following that standard, this change does not result in any changes in costs.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. Based upon the agency's evaluation, I certify that this rule will not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that the amendments will not result in any cost increase or decrease for CNG container manufacturers. NHTSA is aware of approximately ten companies that manufacture CNG containers. Because each CNG container manufacturer is affiliated with a Fortune 500 or other large business, none of them would be considered a small business under the U.S. Small Business Administration's affiliation rule (13 CFR 121.401).

C. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule has no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

D. National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this rule. The agency has determined that this rule will not have any adverse impact on the quality of the human environment.

E. Civil Justice Reform

This rulemaking does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the agency is amending Standard No. 304; *Compressed Natural Gas Fuel Container Integrity,* Part 571 at Title 49 of the Code of Federal Regulations as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.304, is amended by revising S3 and S8.3 through S8.3.9 to read as follows:

§ 571.304 Standard No. 304, Compressed natural gas fuel container integrity

S3. *Application.* This standard applies to each passenger car, multipurpose passenger vehicle, truck, and bus that uses CNG as a motor fuel and to each container designed to store CNG as motor fuel on-board any motor vehicle.

* * * * *

S8.3 *Bonfire test.* The requirements of S7.3 shall be met under the conditions of S8.3.1 through S8.3.7.

S8.3.1 Fill the CNG fuel container with compressed natural gas and test it at:

(a) 100 percent of service pressure; and

(b) 25 percent of service pressure.

S8.3.2 *Container positioning.*

(a) Position the CNG fuel container in accordance with paragraphs (b) and (c) of S8.3.2.

(b) Position the CNG fuel container so that its longitudinal axis is horizontal and its bottom is 100 mm (4 inches) above the fire source.

(c)(1) Position a CNG fuel container that is 1.65 meters (65 inches) in length or less and is fitted with one pressure relief device so that the center of the container is over the center of the fire source.

(2) Position a CNG fuel container that is greater than 1.65 meters (65 inches) in length and is fitted with one pressure relief device at one end of the container so that the center of the fire source is

[2] Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as ''performance-based or design-specific technical specifications and related management systems practices.'' They pertain to ''products and processes, such as size, strength, or technical performance of a product, process or material.''

0.825 meters (32.5 inches) from the other end of the container, measured horizontally along a line parallel to the longitudinal axis of the container.

(3) Position a CNG fuel container that is fitted with pressure relief devices at more than one location along its length so that the portion of container over the center of the fire source is the portion midway between the two pressure relief devices that are separated by the greatest distance, measured horizontally along a line parallel to the longitudinal axis of the container.

(4) Test a CNG fuel container that is greater than 1.65 meters (65 inches) in length, is protected by thermal insulation, and does not have pressure relief devices, twice at 100 percent of service pressure. In one test, position the center of the container over the center of the fire source. In another test, position one end of the container so that the fire source is centered 0.825 meters (32.5 inches) from one end of the container, measured horizontally along a line parallel to the longitudinal axis of the container.

S8.3.3 *Number and placement of thermocouples.* To monitor flame temperature, place three thermocouples so that they are suspended 25 mm (one inch) below the bottom of the CNG fuel container. Position thermocouples so that they are equally spaced over the length of the fire source or length of the container, whichever is shorter.

S8.3.4 *Shielding.*

(a) Use shielding to prevent the flame from directly contacting the CNG fuel container valves, fittings, or pressure relief devices.

(b) To provide the shielding, use steel with 0.6 mm (.025 in) minimum nominal thickness.

(c) Position the shielding so that it does not directly contact the CNG fuel container valves, fittings, or pressure relief devices.

S8.3.5 *Fire source.* Use a uniform fire source that is 1.65 meters long (65 inches). Beginning five minutes after the fire is ignited, maintain an average flame temperature of not less than 430 degrees Celsius (800 degrees Fahrenheit) as determined by the average of the two thermocouples recording the highest temperatures over a 60 second interval:

$$\frac{1}{2}\left[\left(\frac{T_{High\ 1}+T_{High\ 2}}{2}\right)_{@\ time\ 30\ sec}+\left(\frac{T_{High\ 1}+T_{High\ 2}}{2}\right)_{@\ time\ 60\ sec}\right]\geq 430\ ^{o}C$$

If the pressure relief device releases before the end of the fifth minute after ignition, then the minimum temperature requirement does not apply.

S8.3.6 *Recording data.* Record time, temperature, and pressure readings at 30 second intervals, beginning when the fire is ignited and continuing until the pressure release device releases.

S8.3.7 *Duration of exposure to fire source.* The CNG fuel container is exposed to the fire source for 20 minutes after ignition or until the pressure release device releases, whichever period is shorter.

S8.3.8 *Number of tests per container.* A single CNG fuel container is not subjected to more than one bonfire test.

S8.3.9 *Wind velocity.* The average ambient wind velocity at the CNG fuel container during the period specified in S8.3.6 of this standard is not to exceed 2.24 meters/second (5 mph).

* * * * *

Issued on: October 24, 2000.

Sue Bailey,

Administrator.

[FR Doc. 00–27723 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 000119014-0137-02; I.D. 091800G]

Fisheries of the Northeastern United States; Black Sea Bass Fishery; Commercial Quota Harvested for Quarter 4 Period

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

ACTION: Closure; Quarter 4 commercial black sea bass fishery.

SUMMARY: NMFS announces that the black sea bass commercial quota available in the quarter 4 period to the coastal states from Maine through North Carolina has been harvested. Commercial vessels may not land black sea bass in the Northeast region for the remainder of the 2000 quarter 4 quota period (through December 31, 2000). Regulations governing the black sea bass fishery require publication of this notification to advise the coastal states from Maine through North Carolina that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing black sea bass in these states north of 35°15.3' N. lat.

DATES: Effective 0001 hrs local time, November 1, 2000, through 2400 hrs local time, December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Jennifer L. Anderson, Fishery Management Specialist, at (978) 281-9226.

SUPPLEMENTARY INFORMATION: Regulations governing the black sea bass fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is allocated into four quota periods based upon percentages of the annual quota. The quarter 4 (October through December) commercial quota is distributed to the coastal states from Maine through North Carolina. The process to set the annual commercial quota is described in § 648.140.

The initial total commercial quota for black sea bass for the 2000 calendar year was 3,024,742 lb (1,372,000 kg) (65 FR 33486, May 24, 2000). The quarter 4 period quota, which is equal to 19.77 percent of the annual commercial quota, was 540,170 lb (245,017 kg). The quota allocation was adjusted downward (65 FR 50465, August 18, 2000) to compensate for 1999 quarter 4 landings in excess of the 1999 quarter 4 quota, consistent with the procedures in § 648.140. The final adjusted quarter 4 quota was 450,661 lb (204,416 kg).

Section 648.141 requires the Regional Administrator, Northeast Region, NMFS (Regional Administrator), to monitor the commercial black sea bass quota for each quota period on the basis of dealer reports, state data, and other available information to determine when the

commercial quota has been harvested. NMFS is required to publish a notification in the Federal Register advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the black sea bass commercial quota has been harvested and no commercial quota is available for landing black sea bass for the remainder of the quarter 4 period, north of 35°15.3' N. lat. The Regional Administrator has determined, based upon dealer reports and other available information, that the black sea bass commercial quota for the 2000 quarter 4 period has been harvested.

The regulations at § 648.4(b) provide that Federal black sea bass moratorium permit holders agree as a condition of the permit not to land black sea bass in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for the period has been harvested and that no commercial quota for the black sea bass is available. The Regional Administrator has determined that the quarter 4 period for black sea bass no longer has commercial quota available. Therefore, effective 0001 hrs local time, November 1, 2000, further landings of black sea bass in coastal states from Maine through North Carolina, north of 35°15.3' N. lat., by vessels holding commercial Federal fisheries permits are prohibited through December 31, 2000. The 2001 quarter 1 period for commercial black sea bass harvest will open on January 1, 2001. Effective November 1, 2000, federally permitted dealers are also advised that they may not purchase black sea bass from federally permitted black sea bass moratorium permit holders who land in coastal states from Maine through North Carolina, north of 35°15.3' N. lat., for the remainder of the quarter 4 period (through December 31, 2000).

The regulations at § 648.4(b) also provide that, if the commercial black sea bass quota for a period is harvested and the coast is closed to the possession of black sea bass north of 35°15.3' N. lat., any vessel owners who hold valid commercial permits for both the black sea bass and the NMFS Southeast Region Snapper-Grouper fisheries may surrender their black sea bass moratorium permit by certified mail addressed to the Regional Administrator (see table 1 at § 600.502) and fish pursuant to their Snapper-Grouper permit, as long as fishing is conducted exclusively in waters, and landings are made, south of 35°15.3' N. lat. A moratorium permit for the black sea bass fishery that is voluntarily relinquished or surrendered will be reissued upon the receipt of the vessel owner's written request after a minimum period of 6 months from the date of cancellation.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 24, 2000.

Clarence Pautzke,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–27819 Filed 10–27–00; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 65, No. 210
Monday, October 30, 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. 2000–NM–141–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace (Jetstream) Model 4101 airplanes. This proposal would require inspection for cracking of the mounting brackets of the hydraulic hand pump at the frame attachment flanges, replacement of any cracked bracket with a new bracket, replacement of all bolts and nuts with new bolts and nuts, and installation of a particular 'D' packer. This action is necessary to prevent failure of these brackets, which could result in inability to extend the landing gear in an emergency situation where the main hydraulic system is lost. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 29, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–141–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 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. 2000–NM–141–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 British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

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 2000–NM–141–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. 2000–NM–141–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on all British Aerospace (Jetstream) Model 4101 airplanes. The CAA advises that it received reports of cracking of the mounting brackets of the hydraulic hand pump at the frame attachment flanges. The cracking was found when slight leakage of hydraulic fluid in the vicinity of the pump was discovered. Failure of these brackets could result in inability to extend the landing gear in an emergency situation where the main hydraulic system is lost.

Explanation of Relevant Service Information

The manufacturer has issued Jetstream Service Bulletin J41–53–046, dated March 15, 2000. The service bulletin describes procedures for a one-time dye penetrant inspection to detect cracking of the mounting brackets of the hydraulic hand pump at the frame attachment flanges, replacement of any cracked bracket with a new bracket, and replacement of all bolts and nuts with new bolts and nuts. The service bulletin also describes procedures for installation of particular 'D' packers to the mounting brackets to improve service life and reliability. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 003–03–2000 in order to assure the continued

airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 59 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $14,160, or $240 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Docket 2000–NM–141–AD.

Applicability: All Model Jetstream 4101 airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the mounting brackets of the hydraulic hand pump at the frame attachment flanges, which could result in inability to extend the landing gear in an emergency situation where the main hydraulic system is lost, accomplish the following:

Inspection and Installation

(a) Within 6 months after the effective date of this AD, perform a one-time dye penetrant inspection to detect cracking of the mounting brackets of the hydraulic hand pump at the frame attachment flanges, install 'D' packers to the mounting brackets, and replace all bolts and nuts with new bolts and nuts, in accordance with the Accomplishment Instructions of Jetstream Service Bulletin J41–53–046, dated March 15, 2000. If any cracked bracket is found during the inspection, prior to further flight, replace it with a new bracket.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in British airworthiness directive 003–03–2000.

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

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–27798 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–201–AD]

RIN 2120–AA64

Airworthiness Directives; Israel Aircraft Industries, Ltd., Model Galaxy Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Israel Aircraft Industries, Ltd., Model Galaxy airplanes. This proposal would require replacement of certain existing fasteners in the aft pickup fittings of the horizontal stabilizer. This action is necessary to prevent fatigue failure of those fasteners, which could result in reduced structural integrity of the empennage. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 29, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–201–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 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. 2000–NM–201–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 Galaxy Aerospace Corporation, One Galaxy Way, Fort Worth Alliance Airport, Fort Worth, Texas 76177. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

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 2000–NM–201–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. 2000–NM–201–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Administration of Israel (CAAI), which is the airworthiness authority for Israel, notified the FAA that an unsafe condition may exist on certain Israel Aircraft Industries, Ltd., Model Galaxy airplanes. The CAAI advises that early fatigue failure of the fasteners that support the aft pickup fittings of the horizontal stabilizer can occur. This failure was detected during a fatigue test conducted by the manufacturer. Such fatigue failure, if not corrected, could result in reduced structural integrity of the empennage.

Explanation of Relevant Service Information

Israel Aircraft Industries has issued GALAXY Service Bulletin GALAXY–55–008, dated March 23, 2000, which describes procedures for removing certain existing HI–LOKS or life-limited fasteners in the aft pickup fittings of the horizontal stabilizer, and replacing those fasteners with improved non-life-limited fasteners. The replacement involves measuring the diameter of the bolt shank, reaming holes, inspecting to detect cracks using an eddy current technique, and installing certain new bolts. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAAI classified this service bulletin as mandatory and issued Israeli airworthiness directive 55–00–04–05, dated April 27, 2000, in order to assure the continued airworthiness of these airplanes in Israel.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 10 Model GALAXY airplanes of U.S. registry

would be affected by this proposed AD, that it would take approximately 16 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $250 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $12,100, or $1,210 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Israel Aircraft Industries, LTD.: Docket 2000–NM–201–AD.

Applicability: Model GALAXY airplanes having serial numbers 004 through 012 inclusive, and serial number 015; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue failure of certain existing fasteners in the aft pickup fittings of the horizontal stabilizer, which could result in reduced structural integrity of the empennage, accomplish the following:

Fastener Replacement

(a) Within 300 flight hours after the effective date of this AD, or within 3,600 flight hours after accomplishing GALAXY (Israel Aircraft Industries, Ltd.) Service Bulletin GALAXY–55–031, whichever occurs later: Remove existing HI–LOKS or life-limited fasteners in the aft pickup fittings of the horizontal stabilizer, and replace those fasteners with improved non-life-limited fasteners (including measuring the diameter of the bolt shank, reaming holes, inspecting to detect cracks using an eddy current technique, and installing new bolts having part numbers specified in GALAXY (Israel Aircraft Industries, Ltd.) Service Bulletin GALAXY–55–008, dated March 23, 2000). Perform the actions in accordance with GALAXY (Israel Aircraft Industries, Ltd.) Service Bulletin GALAXY–55–008, dated March 23, 2000.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Israeli airworthiness directive 55–00–04–05, dated April 27, 2000.

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

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–27797 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–253–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace Model BAe 146 and Model Avro 146–RJ series airplanes. This proposal would require repetitive non-destructive testing (NDT) inspections to detect cracking at the fuselage end of the inner sidestays of the main landing gear (MLG) by the anti-rotation pin, and replacement of the sidestay with a new sidestay, if necessary. This action is necessary to detect and correct fatigue cracking of the inner sidestays of the MLG, which could result in failure of the MLG. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 29, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–

253–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. 2000–NM–253–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 British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

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 2000–NM–253–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. 2000–NM–253–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on all British Aerospace Model BAe 146 and Model Avro 146-RJ series airplanes. The CAA advises that, during increased load fatigue testing, a crack has been found at the fuselage end on the inner sidestays of the main landing gear (MLG) by the anti-rotation pin. Such fatigue cracking, if not detected and corrected, could result in failure of the MLG.

Explanation of Relevant Service Information

The manufacturer has issued British Aerospace Service Bulletin SB.32–157, dated June 2, 2000. The British Aerospace service bulletin references Messier-Dowty Service Bulletin 146–32–148, including Appendix A, dated April 17, 2000, as the appropriate source of service information for accomplishment of repetitive non-destructive testing (NDT) inspections to detect cracking at the fuselage end of the inner sidestays of the MLG by the anti-rotation pin. The British Aerospace service bulletin recommends that cracked sidestays be replaced with new sidestays prior to further flight. Accomplishment of the actions specified in the Messier-Dowty service bulletin is intended to adequately address the identified unsafe condition.

The CAA classified the British Aerospace service bulletin as mandatory and issued British airworthiness directive 001–06–2000 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the inspections specified in the Messier-Dowty service bulletin described previously. The proposed AD also would require replacement of any cracked sidestay with a new sidestay.

Cost Impact

The FAA estimates that 60 Model BAe 146–100A, –200A, and –300A series airplanes, and Model Avro 146RJ70A, 146RJ85A, and 146–RJ100A series airplanes, of U.S. registry would be affected by this proposed AD. It would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $3,600, or $60 per airplane, per inspection cycle.

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

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship

between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

British Aerospace Regional Aircraft (Formerly British Aerospace Regional Aircraft Limited, Avro International Aerospace Division; British Aerospace, PLC; British Aerospace Commercial Aircraft Limited): Docket 2000–NM–253–AD.

Applicability: All Model BAe 146–100A, –200A, and –300A series airplanes, and all Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) 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 detect and correct fatigue cracking of the inner sidestays of the main landing gear (MLG), which could result in failure of the MLG, accomplish the following:

Inspection

(a) Prior to the accumulation of 8,000 total flight cycles on the MLG sidestays, or within 500 flight cycles after the effective date of this AD, whichever occurs later: Perform a non-destructive testing (NDT) inspection to detect cracking at the fuselage end of the inner sidestays of the MLG by the anti-rotation pin, in accordance with Messier-Dowty Service Bulletin 146–32–148, including Appendix A, dated April 17, 2000. Repeat the inspection thereafter at intervals not to exceed 4,000 flight cycles.

Replacement

(b) If any cracking is found during any inspection required by paragraph (a) of this AD, prior to further flight, replace the sidestay with a new sidestay in accordance with British Aerospace Service Bulletin SB.32–157, dated June 2, 2000.

Alternative Methods of Compliance

(c) 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, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) 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.

Note 3: The subject of this AD is addressed in British airworthiness directive 001–06–2000.

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

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–27796 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–264–AD]

RIN 2120–AA64

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA), Model CN–235, CN–235–100, and CN–235–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all CASA Model CN–235, CN–235–100, and CN–235–200 series airplanes. This proposal would require replacing the upper brackets in frames 33, 34, and 35, with improved brackets that are more fatigue resistant, and reinforcing frame 35. This action is necessary to prevent fatigue cracking in the zone of the fittings connecting the fuselage to stiffener rods located in frames 33, 34, and 35, which could result in reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 29, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–264–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. 2000–NM–264–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 Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

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 2000–NM–264–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. 2000–NM–264–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direccion General de l'Aviacion Civil (DGAC), which is the airworthiness authority for Spain, notified the FAA that an unsafe condition may exist on all CASA Model CN–235, CN–235–100, and CN–235–200 series airplanes. The DGAC advises that, during fatigue testing of the Model CN–235 series airplane, cracks were found in the zone of the fittings connecting the fuselage to stiffener rods located in frame 35. Similar stiffener rods are attached to the fuselage at frames 33 and 34. Such fatigue cracking, if not detected and corrected, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

CASA has issued Service Bulletin SB–235–53–48, dated December 11, 1997, which describes procedures for replacing the upper brackets in frames 33, 34, and 35, with improved brackets that are more fatigue resistant, and reinforcing frame 35. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued Spanish airworthiness directive 02/2000, dated January 31, 2000, in order to assure the continued airworthiness of these airplanes in Spain.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 1 airplane of U.S. registry would be affected by this proposed AD, that it would take approximately 80 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $2,871 per airplane. Based on these figures, the cost impact of the proposed AD on the U.S. operator of the one affected airplane is estimated to be $7,671.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Construcciones Aeronauticas, S.A. (CASA): Docket 2000–NM–264–AD.

Applicability: All Model CN–235, CN–235–100, and CN–235–200 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously. To prevent fatigue cracking in the zone of the fittings connecting the fuselage to stiffener rods located in frames 33, 34, and 35, which could result in reduced structural integrity of the airplane, accomplish the following:

Bracket Replacement

(a) Prior to the accumulation of 25,000 total landings, replace the upper brackets in frames 33, 34, and 35, with improved brackets that are more fatigue resistant, and reinforce frame 35, in accordance with CASA Service Bulletin SB–235–53–48, dated December 11, 1997.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Spanish airworthiness directive 02/2000, dated January 31, 2000.

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

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–27795 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–291–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 900 and Falcon 900EX Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dassault Model Mystere-Falcon 900 and Falcon 900EX series airplanes. This proposal would require replacement of the protective screens of the underfloor structure boxes at frame 25. This action is necessary to prevent water from collecting and freezing in the structure boxes at frame 25, which could result in jamming of the flight controls and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 29, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–291–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 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. 2000–NM–291–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 Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

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 2000–NM–291–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. 2000–NM–291–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direccion Generale de l'Aviacion Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Dassault Model Mystere-Falcon 900 and Falcon 900EX series airplanes. The DGAC advises that it has received a report of clogging at the drain hole for the underfloor structure boxes at frame 25. Other reports have been received indicating that these screens may encourage water retention in the structure boxes through which the flight and throttle controls are routed. Such water retention is the result of their mesh and installation of the screens. If water collects in the structure boxes at frame 25, it could freeze, which could result in jamming of the flight controls and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Dassault has issued Falcon 900EX Service Bulletin 0093, dated March 1999, and Falcon 900 Service Bulletin 0232, dated March 1999. These service bulletins describe procedures for removing the existing protective screens that are riveted to the center beam and are also bonded to the frame and to the bottom of the underfloor structure boxes at frame 25, and installing new wider-mesh screens that are riveted to the center beam and bonded to the frame only. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 1999–446–028(B), dated November 3, 1999, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously.

Cost Impact

The FAA estimates that 127 Dassault Model Mystere-Falcon 900 and Falcon 900EX series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $128 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $54,356, or $428 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket 2000–NM–291–AD.

Applicability: Model Mystere-Falcon 900 series airplanes having serial numbers 1 through 177 inclusive; and Model Falcon 900EX series airplanes having serial numbers 1 through 41 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent water from collecting and freezing in the structure boxes at frame 25, which could result in jamming of the flight controls and consequent reduced controllability of the airplane, accomplish the following:

Screen Replacement

(a) Within 6 months after the effective date of this AD: Remove the existing protective screens that are riveted to the center beam and are also bonded to the frame and to the bottom of the underfloor structure boxes at frame 25, and install new wider-mesh screens that are riveted to the center beam and bonded to the frame only. Accomplish the actions in accordance with Dassault Falcon 900 Service Bulletin 0232, dated March 1999, or Dassault Falcon 900EX Service Bulletin 0093, dated March 1999, as applicable.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in French airworthiness directive 1999–446–028(B), dated November 3, 1999.

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

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–27792 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–190–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace Model BAe 146 and Model Avro 146–RJ series airplanes. This proposal would require revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate life limits for certain items and inspections to detect fatigue cracking in certain structures. This proposal is prompted by issuance of a revision to the airworthiness limitations of the BAe/Avro 146 Aircraft Maintenance Manual, which specifies new inspections and compliance times for inspection and replacement actions. The actions specified by the proposed AD are intended to ensure that fatigue cracking of certain structural elements is detected and corrected; such fatigue cracking could adversely affect the structural integrity of these airplanes.

DATES: Comments must be received by November 29, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–190–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–190–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 British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

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–190–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–190–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that a revision to Section 05–10–01 has been issued for Chapter 5 of the BAe/Avro 146 Aircraft Maintenance Manual (AMM). That section also references additional sections of the AMM. [The FAA refers to the information included in the revised section of the AMM as the Airworthiness Limitations Section (ALS).] The revised section affects all British Aerospace Model BAe 146 and Model Avro 146–RJ series airplanes. In addition, that section provides mandatory replacement times and structural inspection intervals approved under section 25.571 of the Joint Aviation Requirements and the Federal Aviation Regulations (14 CFR 25.571). As airplanes gain service experience, or as results of post-certification testing and evaluation are obtained, it may become necessary to add additional life limits or structural inspections to ensure the continued structural integrity of the airplane.

The CAA advises that analysis of fatigue test data has revealed that certain inspections must be performed at specific intervals to preclude fatigue cracking in certain areas of the airplane. In addition, the CAA advises that certain life limits must be imposed for various components on these airplanes to preclude the onset of fatigue cracking in those components. Such fatigue cracking, if not corrected, could adversely affect the structural integrity of these airplanes.

Explanation of Relevant Service Information

British Aerospace has issued Section 05–10–01, Revision 65, dated August 3, 1999, which is a revision to Chapter 5 of the BAe/Avro 146 Aircraft Maintenance Manual (AMM). That section references additional sections, which include the following:

1. Life limit times for certain structural components, or other components or equipment.

2. Structural inspection times to detect fatigue cracking of certain Significant Structural Items (SSI's).

The revision to Section 05–10–01 of the AMM describes new inspections and compliance times for inspection and replacement actions. Accomplishment of those actions will preclude the onset of fatigue cracking of certain structural elements of the airplane.

The CAA has approved Section 05–10–01, Revision 65, of the AMM to assure the continued airworthiness of these airplanes in the United Kingdom. The CAA has not issued a corresponding airworthiness directive, although accomplishment of the additional life limits and structural inspections contained in the AMM revision may be considered mandatory for operators of these airplanes in the United Kingdom.

FAA's Conclusions

The FAA has reviewed Section 05–10–01, Revision 65, of the AMM and all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. The FAA has determined that Section 05–10–01, Revision 65, of the AMM must be incorporated into the ALS of the Instructions for Continued Airworthiness.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a revision to the ALS of the Instructions for Continued Airworthiness to incorporate inspections to detect fatigue cracking of certain SSI's and to revise life limits for certain equipment and various components that are specified in the previously referenced maintenance document.

Explanation of Action Taken by the FAA

In accordance with airworthiness standards requiring ''damage tolerance assessments'' for transport category airplanes [section 25.1529 of the Federal Aviation Regulations (14 CFR 25.1529), and the Appendices referenced in that section], all products certificated to comply with that section must have Instructions for Continued Airworthiness (or, for some products, maintenance manuals) that include an ALS. That section must set forth:

- Mandatory replacement times for structural components,
- Structural inspection intervals, and
- Related approved structural inspection procedures necessary to show compliance with the damage-tolerance requirements.

Compliance with the terms specified in the ALS is required by sections 43.16 (for persons maintaining products) and 91.403 (for operators) of the Federal Aviation Regulations (14 CFR 43.16 and 91.403).

In order to require compliance with these inspection intervals and life limits, the FAA must engage in rulemaking, namely the issuance of an AD. For products certificated to comply with the referenced part 25 requirements, it is within the authority of the FAA to issue an AD requiring a revision to the ALS that includes reduced life limits, or new or different structural inspection requirements. These revisions then are mandatory for operators under section 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403), which prohibits operation of an airplane for which airworthiness limitations have been issued unless the inspection intervals specified in those limitations have been complied with.

After that document is revised, as required, and the AD has been fully complied with, the life limit or structural inspection change remains enforceable as a part of the airworthiness limitations. (This is analogous to AD's that require changes to the Limitations Section of the Airplane Flight Manual.)

Requiring a revision of the airworthiness limitations, rather than requiring individual inspections, is advantageous for operators because it allows them to record AD compliance status only once—at the time they make the revision—rather than after every inspection. It also has the advantage of keeping all airworthiness limitations, whether imposed by original certification or by AD, in one place within the operator's maintenance program, thereby reducing the risk of non-compliance because of oversight or confusion.

Cost Impact

The FAA estimates that 45 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $2,700, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of

the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

British Aerospace Regional Aircraft (Formerly British Aerospace Regional Aircraft Limited, Avro International Aerospace Division; British Aerospace, PLC; British Aerospace Commercial Aircraft Limited): Docket 99–NM–190–AD.

Applicability: All Model BAe 146 and Model Avro 146–RJ series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) 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 ensure continued structural integrity of these airplanes, accomplish the following:

Airworthiness Limitations Revision

(a) Within 30 days after the effective date of this AD, revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness by incorporating Section 05–10–01, Revision 65, dated August 3, 1999, of Chapter 5 of the BAe/Avro 146 Aircraft Maintenance Manual (AMM), into the ALS. This section references other sections of the AMM. The applicable revision level of the referenced sections is that in effect on the effective date of this AD.

(b) Except as specified in paragraph (c) of this AD: After the actions specified in paragraph (a) of this AD have been accomplished, no alternative inspections or inspection intervals may be approved for the structural elements specified in the document listed in paragraph (a) of this AD.

Alternative Methods of Compliance

(c) 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, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) 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 October 24, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–27790 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–24–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Model 172RG Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Cessna Aircraft Company (Cessna) Model 172 airplanes. The proposed AD would require you to inspect the main landing gear pivot assemblies for cracks, replace any cracked main landing gear pivot assemblies, and install new bushings on the pivot assembly shaft. Many service difficulty reports of cracked main landing gear pivot assemblies on the affected airplanes prompted the proposed action. The actions specified by the proposed AD are intended to detect, correct, and prevent future cracks on the original design landing gear pivots. Cracked main landing gear pivots could fail resulting in gear-up landings or loss of braking.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule by December 7, 2000.

ADDRESSES: Send comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–24–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may read comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

You may get the service information referenced in this proposed AD from the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; facsimile: (316) 942–9006. You may examine this information at the Rules Docket at the above address.

FOR FURTHER INFORMATION CONTACT: Steven Litke, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4127; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on the proposed AD? We invite your comments on the proposed rule. You may send whatever written data, views, or arguments you choose. You need to include the rule's docket number and send your comments in triplicate to the address named under the caption **ADDRESSES.** We will consider all comments received by the closing date named above, before taking action on the proposed rule. We may change the proposals contained in this notice because of the comments received.

Are there any specific portions of the proposed AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might call for a need to change the proposed rule. You may examine all comments we receive before and after the closing date for comments in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this proposal.

The FAA is reexamining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We want to read your comments on the ease of understanding this document, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.faa.gov/language/.

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–24–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The FAA has received many service difficulty reports of failures of pivot assemblies on Cessna Model 172RG airplanes. Failure of the main landing gear pivots has resulted in gear-up landings or loss of braking. The end of the pivot experiences overload stresses because of improper bushing clearance. This stress can produce fatigue cracks that spread until the pivot fitting fails, preventing the landing gear from extending. In other cases, brake fluid leaks through the fatigue crack resulting in loss of braking action.

What are the consequences if the condition is not corrected? Original design landing gear pivots, if not replaced with improved pivots, could crack and fail, resulting in gear-up landings or loss of braking.

Relevant Service Information

Is there service information that applies to this subject? Cessna has issued Service Bulletin SEB90–1, Revision 3, dated March 15, 1999.

What are the provisions of this service bulletin? The service bulletin contains procedures for:

—Inspecting the main landing gear pivot assemblies for cracks,
—Replacing any cracked main landing gear pivot assemblies, and
—Installing new bushings on the pivot assembly shaft.

The FAA's Determination and an Explanation of the Provisions of the Proposed AD

What has FAA decided? After examining the circumstances and reviewing all available information related to the incidents, we have determined that:

—The unsafe condition referenced in this document exists or could develop on other Cessna Model 172RG airplanes of the same type design;
—These airplanes should have the actions named in the service bulletin incorporated; and
—The FAA should take AD action to correct this unsafe condition.

What would this proposed AD require? This proposed AD would require you to follow the Cessna Service Bulletin SEB90–1, Revision 3, dated March 15, 1999, and the Model 172RG Series Service Manual and do these actions:

—Inspect the main landing gear pivot assemblies for cracks;
—Replace any cracked main landing gear pivot assemblies; and
—Install new bushings on the pivot assembly shaft.

Cost Impact

How many airplanes would this proposed AD impact? We estimate the proposed AD would affect 766 airplanes in the U.S. registry.

What would be the cost impact of the proposed actions for the affected airplanes on the U.S. Register? We estimate that it would take about 20 workhours for each airplane to do both proposed pivot assembly inspections, at an average labor rate of $60 an hour. Based on the figures presented above, we estimate the total cost impact of the proposed inspection on U.S. operators is $919,200, or $1,200 for each airplane.

We estimate that it would take about 5 workhours for each airplane to do both proposed bushing replacements concurrent with the pivot assembly inspection, at an average labor rate of $60 an hour. Parts cost about $200 for each airplane. Based on the figures presented above, we estimate the total cost impact of the proposed bushing replacement on U.S. operators is $500 for each airplane.

If a crack is found during the pivot assembly inspection, the pivot assembly must be replaced. We estimate that it would take about 3 workhours to do each proposed pivot assembly replacement, at an average labor rate of $60 an hour. Parts cost about $2,783 for each pivot assembly. Based on the figures presented above, we estimate the total cost impact of the proposed pivot assembly replacement on U.S. operators is $2,963 for each pivot assembly.

We have no way of knowing how many airplanes will require replacement pivot assemblies. The total cost for each airplane for this proposed AD depends on whether a crack is found during the inspection of the pivot assembly. We estimate the total cost impact of this AD for each airplane to U.S. operators is:

Neither pivot cracked	One pivot cracked	Both pivots cracked
$1700	$4663	$7626

Regulatory Impact

Would this proposed AD impact relations between Federal and State governments? The regulations proposed would not have a substantial direct effect on the States, between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if put into effect, 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. We have placed a copy of the draft regulatory evaluation prepared for this action in the Rules Docket. You may get

a copy of it 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

Therefore, under the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) 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. FAA amends Section 39.13 by adding a new airworthiness directive (AD) to read as follows:

Cessna Aircraft Company: Docket No. 2000–CE–24–AD.

(a) *What airplanes are affected by this AD?* Model 172RG, with the serial numbers 691 and 172RG0001 through 172RG1191, certified in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified in this AD are intended to detect, correct, and prevent future cracks on the original design landing gear pivots. Cracked main landing gear pivots could fail, resulting in gear-up landings or loss of braking.

(d) *What must I do to address this problem?* To address this problem, you must do the following actions:

Actions	Compliance times	Procedures
(1) Inspect the main landing gear pivot assemblies for cracks.	Within the next 100 time-inservice after the effective date of this AD.	Do this action following the ACCOMPLISHMENT INSTRUCTIONS in Cessna Service Bulletin SEB90–1, Revision 3, dated March 15, 1999, and the Model 172RG Series Service Manual.
(2) If you find cracks, replace the affected main landing gear pivot assembly with the part referenced in the service bulletin.	Before further flight after the inspection	Do this action following the ACCOMPLISHMENT INSTRUCTIONS in Cessna Service Bulletin SEB90–1, Revision 3, dated March 15, 1999, and the Model 172RG Series Service Manual.
(3) Install new bushings on both main landing gear pivot assemblies using the applicable kit referenced in the service bulletin.	Before further flight after the inspection	Do this action following the ACCOMPLISHMENT INSTRUCTIONS in Cessna Service Bulletin SEB90–1, Revision 3, dated March 15, 1999, and the Model 172RG Series Service Manual.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Send your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, 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 the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance under paragraph (e) 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 you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Steven Litke, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4127; facsimile: (316) 946–4407.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can do the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; or read this document at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 23, 2000.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–27755 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Proposed Revisions of the Minneapolis Class B Airspace Area, MN; Public Meetings

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Public Meeting.

SUMMARY: This notice announces two fact-finding informal airspace meetings to solicit information from airspace users, and others, concerning a proposal to revise the Class B airspace at Minneapolis, MN. The purpose of these meetings is to provide interested parties the opportunity to present views, recommendations, and comments on this proposal. All comments received during the meetings will be considered prior to issuance of a notice of proposed rulemaking.

TIMES AND DATES: The informal airspace meetings will be held on Tuesday, January 9, 2001, starting at 6:30 p.m. until 10 p.m., and on Saturday, January 13, 2001, starting at 9 a.m. until 1 p.m. Comments must be received on or before March 13, 2001. Send or deliver comments on the proposal in triplicate to: Manager, Air Traffic Division, AGL–500, Federal Aviation Administration, Great Lakes Region Headquarters, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, IL 60018.

ADDRESSES: On January 9, 2001, the meeting will be at St. Paul Downtown Airport, Army Aviation Support Facility, 206 Airport Road, St. Paul, MN. On January 13, 2001, the meeting will be at Hennepin Technical College, Flying Cloud Campus, 9200 Flying Cloud Drive, Eden Prairie, MN.

FOR FURTHER INFORMATION CONTACT: Arthur Hill, Air Traffic Division, AGL–

520, FAA, Great Lakes Regional Office, telephone (874) 294–7261.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

The following procedures will be used to facilitate the meetings:

(a) The meeting will be informal in nature and will be conducted by a representative of the FAA Great Lakes Region. Representative from the FAA will present a formal briefing on the proposed revisions of the Class B Airspace Areas. Each participant will be given the opportunity to deliver comments or make a presentation.

(b) The meeting will be open to all persons on a space available basis. There will be no admission fee or other charge to attend and participate.

(c) Any person wishing to make a presentation of the FAA panel will be asked to sign in and estimate the amount of time needed for such presentation. This will permit the panel to allocate an appropriate amount of time for each presenter.

(d) The meeting will not be adjourned until everyone on the list has had an opportunity to address the panel.

(e) Position papers or other handout material relating to the substance of the meeting will be accepted. Participants wishing to submit handout material should present three copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(f) The meeting will not be formally recorded. However, a summary of the comments made at the meetings will be filed in the docket.

Agenda for the Meetings

Opening remarks and Discussion of Meeting Procedure.

Briefing on Background for proposal.

Public Presentations.

Closing Comments.

Christopher Blum,

Manager, Air Traffic Division.

[FR Doc. 00–27753 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 70

RIN 1076–AD98

Certificate of Degree of Indian or Alaska Native Blood

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; Reopening of comment period and additional public meetings.

SUMMARY: This notice reopens the comment period for the proposed rule published at 65 FR 38228 (June 20, 2000), to establish documentation requirements and standards for filing, processing, and issuing a Certificate of Degree of Indian or Alaska Native Blood (CDIB) by the Bureau of Indian Affairs; and announces two additional public meetings to discuss the proposed rule.

DATES: The comment period is extended from August 16, 2000, to the close of business, on December 20, 2000, Central Standard Time. The public meetings will be held on November 7, 2000 and November 8, 2000, 9 a.m. to 4 p.m., local time.

ADDRESSES: You may mail your comments to Karen Ketcher, Branch of Tribal Operations, Eastern Oklahoma Region, Bureau of Indian Affairs, 101 North 5th Street, Muskogee, OK 74401.

FOR FURTHER INFORMATION CONTACT: Karen Ketcher, Branch of Tribal Operations, Eastern Oklahoma Region, Department of the Interior, Bureau of Indian Affairs, 101 North 5th Street, Muskogee, OK 74401. You may also hand-deliver comments to us at Room 426, at the same address. For information about filing comment electronically, see the **SUPPLEMENTARY INFORMATION** section in the April 18, 2000, **Federal Register** notice.

SUPPLEMENTARY INFORMATION: On Tuesday, June 20, 2000, the Bureau of Indian Affairs published a proposed rule; notice of meeting and extension of comment period, 65 FR 38228, to establish documentation requirements and standards for filing, processing, and issuing a Certificate of Degree of Indian or Alaska Native Blood (CDIB). The deadline for receipt of comments was July 17, 2000, which was extended to August 16, 2000. We are now scheduling several additional public meetings for representatives of the California Indian tribes. The public meetings will be held as follows: Tuesday November 7, 2000, in Sacramento, California, at the Bureau of Indian Affairs Pacific Regional Office at 2800 Cottage Way, Sacramento, California 95825, telephone number (916) 978–6063 and Wednesday, November 8, 2000, at the Ontario Convention Center, 2000 Convention Center Way, Ontario, California 91764, telephone number (909) 937–3000. Persons who wish to testify at any future sessions scheduled where comments are recorded for the record are requested to observe the following rules: In order to assist the transcriber and to ensure an accurate record, we request that you give the transcriber a copy of your prepared testimony. In order to assist us in preparing appropriate responses or answers to your questions, we also ask that if you plan to testify, please submit an advance copy of your testimony to us at the address specified in the **ADDRESSES** section.

Dated: October 24, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–27783 Filed 10–27–00; 8:45 am]

BILLING CODE 4310–02–P

POSTAL SERVICE

39 CFR Part 111

Sack Preparation Changes for Periodicals Nonletter-Size Mailing Jobs That Include Automation Flat Rate and Presorted Rate Mailings

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the standards for preparation of Periodicals nonletter-size mailing jobs that include both an automation flats mailing and a Presorted flats mailing to require use of the co-sacking preparation method in Domestic Mail Manual (DMM) M910.

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

ADDRESSES: Send written comments to the Manager, Mail Preparation and Standards, U.S. Postal Service, 1735 N. Lynn St, Room 3025, Arlington, VA 22209–6038. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the Postal Service Library, 475 L'Enfant Plaza SW, Room 11–N, Washington DC.

FOR FURTHER INFORMATION CONTACT: Lynn M. Martin, 703–292–3645.

SUPPLEMENTARY INFORMATION: The Postal Service and the Periodicals industry are concerned over recent upward trends in the costs associated with processing Periodicals mail and have been studying ways to reverse these trends. Several ideas have come out of mutual discussions involving representatives from the Postal Service and the Periodicals industry. Cost models suggest that we can reduce handling costs for Periodicals by requiring sacked nonletter-size mail to be prepared in a manner that will reduce the number of sacks prepared and handled, and

concurrently increase the number of more finely presorted sacks in the manner set forth as a presort option in Domestic Mail Manual (DMM) M910, to go into effect December 15, 2000. This presort option allows mailers of nonletter-size Periodicals (as well as flat-size First-Class Mail and Standard Mail (A)) to combine packages of automation rate mail and packages of Presorted rate mail in the same sack or, for First-Class Mail, in the same tray.

In order to reduce processing costs for the handling of Periodicals mail, the Postal Service is proposing that Periodicals mailers be required to prepare sacked mailing jobs of nonletter-size mail that include both an automation flats rate mailing and a Presorted rate mailing using the co-sacking preparation requirements in DMM M910.

The proposed effective date of this change is the date of implementation of the rates resulting from the R2000–1 rate case. It is anticipated that this implementation date will be in January 2001.

To help mailers identify the requirements for a Presorted rate mailing, this proposal also reorganizes Domestic Mail Manual E200 and M200 to separate the eligibility and presort requirements for Periodicals Presorted rate mailings from those of carrier route mailings. DMM E200 will now contain section E220 that pertains only to Presorted rate mailings and section E230 that pertains only to carrier route mailings. (The information published in proposed DMM E220 in the **Federal Register** proposed rule of August 29, 2000 (65 FR 52480), ''Proposed Changes to the Domestic Mail Manual to Implement Docket No. R2000–1,'' will be redesignated as DMM E217 when a final rule regarding that proposal is published.) DMM M200 will now contain section M210 that pertains only to Presorted rate mailings and section M220 that pertains only to carrier route mailings. Under current standards, Presorted and carrier route are two separate mailings with separate eligibility requirements and separate packaging and sacking requirements. This reorganization does not change current requirements, but reflects the separate mailing status of these two types of mailings. It also makes the DMM numbering for Periodicals consistent with the numbering system used for Standard Mail (A).

As information, the DMM language in this proposed rule incorporates revisions to the DMM from three previously published **Federal Register** final rules that also will take effect on the date of implementation of the rates resulting from the R2000–1 rate case. These final rules are:

1. ''Sack Preparation Changes for Periodicals Nonletter-Size Pieces and Periodicals Prepared on Pallets'' published on July 28, 2000 (65 FR 46361).

2. ''Line-of-Travel Sequencing for Basic Carrier Route Periodicals'' published on July 28, 2000 (65 FR 46363).

3. ''Domestic Mail Manual Changes for Sacking and Palletizing Periodicals Nonletters and Standard Mail (A) Flats, for Traying First-Class Flats, and for Labeling Pallets'' published on August 16, 2000 (65 FR 50054).

Accordingly, the numbering and the language of the DMM sections in this proposed rule have been synchronized with these final rules and may not match the numbering and language in current DMM Issue 55.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 410(a)), the Postal Service invites comments on the following proposed revisions to the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U. S. C. 552(a); 39 U. S. C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual (DMM) as set forth below:

Domestic Mail Manual (DMM)

E Eligibility

* * * * *

E200 Periodicals

* * * * *

[Add heading E220 to read as follows:]

E220 Presorted Rates

[Add new summary to read as follows:]

Summary. E220 describes the eligibility standards for mailing Presorted rate mailings (5-digit, 3-digit, and basic rates). It also describes combining multiple publications or editions.

[Add new 1.0 that copies information from E230 and deletes information pertaining to carrier route mail to read as follows:]

1.0 BASIC INFORMATION

1.1 Standards

The standards for Presorted rates are in addition to the basic standards for Periodicals in E210, the standards for other rates or discounts claimed, and the applicable preparation standards in M045, M200, M910, M920, M930, or M940. Not all combinations of presort level, automation, and destination entry discounts are permitted.

[Copy E230.1.2 as new E220.1.2 and amend to include references to new palletization options to read as follows:]

1.2 Palletized Mail

A correctly prepared package is the equivalent of a sack when palletized under M045, M920, M930, or M940. Individual pieces qualify for the presort level rate appropriate for the palletized packages in which they are placed, regardless of the destination of the pallet. Eligibility for destination entry or other zoned rates depends on the point of entry.

[Redesignate E230.1.3 as E220.1.3.]

1.4 Barcodes

[Copy E230.1.4 as E220.1.4 and amend by changing ''nonautomation'' to ''Presorted'' to read as follows:]

Any POSTNET barcode on a mailpiece in a Presorted Periodicals mailing must be correct for the delivery address and meet the standards in C840 and A950.

1.5 Documentation

[Copy E230.1.5 to E220.1.5, amend by adding information on postage statements to read as follows:]

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing, supported by standardized documentation meeting the basic standards in P012. Documentation of postage is not required if each piece in the mailing is of identical weight and the pieces are separated when presented for acceptance by rate, by zone (including separation by In-County and Outside-County rates), and by entry discount (*e.g.,* DDU and DSCF).

[Add new heading 2.0 to read as follows:]

2.0 Rates

[Redesignate E230.3.0 through E230.5.0 as E220.2.1, 2.2, and 2.3, respectively.]

[Copy E230.7.0 as E220.3.0.]

[Revise the heading of E230 to read as follows:]

E230 Carrier Route Rates

[Amend the summary to exclude non-carrier route rates to read as follows:]

Summary. E230 describes the eligibility standards for mailing at carrier route rates. It also describes combining multiple publications or editions.

1.0 BASIC INFORMATION

1.1 Standards

[Amend 1.1 to delete information on Presorted rate mail to read as follows:]

The standards for carrier route rates are in addition to the basic standards for Periodicals in E210, the standards for other rates or discounts claimed, and the applicable preparation standards in M045, M200, M910, M920, M930, or M940. Not all combinations of presort level, automation, and destination entry discounts are permitted.

[Amend 1.2 to include references to new palletization options to read as follows:]

1.2 Palletized Mail

A correctly prepared package is the equivalent of a sack when palletized under M045, M920, M930, or M940. Individual pieces qualify for the presort level rate appropriate for the palletized packages in which they are placed, regardless of the destination of the pallet. Eligibility for destination entry or other zoned rates depends on the point of entry.

[Redesignate the heading 2.1 as 1.3 and amend to read as follows:]

1.3 Carrier Route Code Accuracy

[Redesignate the text of 2.1 as 1.3 and amend to add references to the sequencing requirements to read as follows:]

Except for mailings prepared with a simplified address under A040, carrier route codes must be applied to mailings using CASS-certified software and the current USPS Carrier Route Information System (CRIS) scheme, hard copy CRIS files, or another AIS product containing carrier route information, subject to A930 and A950. Carrier route information must be updated within 90 days before the mailing date. The applicable sequencing requirements in 2.2, 3.0, and M050 must also be met.

* * * * *

1.5 Documentation

[Amend 1.5 to add information on postage statement standards and to add a cross-reference to the documentation requirements in M050 for sequencing to read as follows:]

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing, supported by standardized documentation meeting the basic standards in P012. Documentation of postage is not required if each piece in the mailing is of identical weight and the pieces are separated when presented for acceptance by rate, by zone (including separation by In-County and Outside-County rates), and by entry discount (*e.g.,* DDU and DSCF). Documentation of sequencing and of density standards under M050 must be submitted with each mailing.

[Revise the heading of 2.0 (as set forth in the final rule published in 65 FR 50054, August 16, 2000), and add new heading 2.1 to read as follows:]

2.0 Sortation and Sequencing

2.1 Sortation

[Redesignate the contents of 2.2a (as set forth in the final rule published in 65 FR 50054, August 16, 2000) as 2.1a and b to separate letter mail standards from nonletter mail standards to read as follows:]

Preparation to qualify eligible pieces for carrier route rates is optional and is subject to M045, M200, or (nonletter-size mail only) M920, M930, or M940. Carrier route sort need not be done for all carrier routes in a 5-digit area. Specific rate eligibility is subject to these standards:

a. The carrier route rates for letter-size mail apply to copies that are prepared in carrier route packages of six or more pieces each that are sorted to carrier route, 5-digit carrier routes, or 3-digit carrier routes trays.

b. The carrier route rates for nonletter-size mail apply to copies of flat-size or irregular parcel-size pieces prepared in carrier route packages of six or more pieces each, and that are sorted to pallets under M045 or M920, M930, or M940, or sacked in carrier route, 5-digit scheme carrier routes, or 5-digit carrier routes sacks, and, if prepared under M920, merged 5-digit scheme sacks or merged 5-digit sacks. Preparation of 5-digit scheme carrier routes sacks or pallets is required and must be done for all 5-digit scheme destinations. Preparation of merged 5-digit sacks and merged 5-digit scheme sacks is optional but if performed must be done for all 5-digit ZIP Codes for which there is an ''A'' or ''C'' indicator in the City State Product that permits co-containerization of carrier route and 5-digit packages. Preparation of merged 5-digit pallets and merged 5-digit scheme pallets is optional but if performed must be done for all 5-digit ZIP Codes or 5-digit schemes for which those pallet levels are possible (under M920 if there is an ''A'' or ''C'' indicator in the City State Product, under M930 if the 5% threshold standard is met, and under M940 if ZIP Codes have an ''A'' or ''C'' indicator in the City State Product and if ZIP Codes with a ''B'' or ''D'' indicator in the City State Product meet the 5% threshold standards). For merged 5-digit scheme sacks or pallets, preparation also must be done for all 5-digit scheme destinations. The applicable sequencing requirements in M050 and in 2.2a or 2.2b also must be met.

[Amend the heading of 2.2 and redesignate 2.2b and c (as set forth in the final rule published in 65 FR 50054, August 16, 2000) as 2.2a and b, to read as follows:]

2.2 Sequencing Requirements

Carrier route mail must be prepared in delivery sequence as follows:

a. Basic carrier route rate mail must be prepared either in carrier walk sequence or in line-of-travel (LOT) sequence according to LOT schemes as prescribed by the USPS (M050).

b. The high density and saturation rates apply to pieces that are eligible for carrier route rates under 2.1, are prepared in carrier walk sequence, and meet the applicable density standards in 3.0 for the rate claimed.

[Redesignate 6.0 (as set forth in the final rule published in 65 FR 50054, August 16, 2000) as 3.0; amend redesignated 3.1 by changing the reference ''2.2'' to ''1.0 and 2.0'' and by changing the reference ''6.4'' to ''3.4'', amend redesignated 3.4 by changing all references to ''6.4'' to ''3.4.''']

[Redesignate 7.0 as 4.0.]

* * * * *

M200 Periodicals (Nonautomation)

[Add new heading M210 to read as follows:]

M210 Presorted Rate Periodicals

[Redesignate the summary of M200 as the summary of M210 and amend to delete references to carrier route mail to read as follows:]

Summary. M200 describes the basic standards for Periodicals Presorted rate mailings including package and tray preparation for letters, and package and sack preparation for flats and irregular parcels. Additional requirements for preparing mail on pallets are in M041 and M045, or M041 and M920, M930, or M940. For standards on automation rate Periodicals mailings see E240 and M810 (letters) or M820 (flats), as applicable. For standards on carrier route mailings see E230 and M220.

[Redesignate M200.1.0 as M210.1.0.]

1.0 BASIC STANDARDS

[Revise heading and text of redesignated M210.1.1 for clarity and to exclude Presorted rate sacked nonletter-size mailings that contain an automation rate mailing to read as follows:]

1.1 Basic Standards

For all letter-size mailings, for sacked mailing jobs of nonletter-size mail that do not contain an automation rate mailing or a carrier route mailing, and for all palletized mailing jobs the following standards must be met for the Presorted rate mailing:

a. All pieces in each Presorted rate Periodicals mailing must be in the same processing category.

b. Letter-size pieces must be packaged under 2.0 and prepared in trays under 3.0. Trays prepared under this section may subsequently be palletized under M041 and M045.

c. Nonletter-size pieces must be packaged under 2.0. Packages placed on pallets must meet additional packaging criteria under M045.

d. Packages of nonletter-size pieces must be sacked or palletized as follows:

(1) sacked under 4.0, except that a Presorted rate mailing that is part of a mailing job that also contains an automation flats mailing must be sacked under M910 or M920 as described in 1.2; or

(2) palletized under M041 and M045, M920, M930, or M940.

e. Sacks prepared under 4.0 may subsequently be prepared on pallets under M041 and M045.

f. All pieces must be sorted together to the finest extent required under the applicable sortation standards described above.

g. Postmasters may authorize preparation of small mailings in non-postal containers if they consist primarily of packages for local ZIP Codes, do not exceed 20 pounds, and do not require postal transportation for processing.

[Redesignate 1.2 as 1.3 and add new 1.2 to read as follows:]

1.2 Additional Standards for Nonletter Sacked Mailing Jobs Containing More Than One Mailing

The following standards apply:

a. Flats and irregular parcel mailings prepared in sacks that are part of a mailing job that contains a carrier route rate mailing, an automation flat rate mailing, and a Presorted rate mailing must be prepared under one of the following options: (1) the carrier route mailing must be prepared under E230 and M220 and the automation rate and Presorted rate mailings must be prepared under M910; or (2) all three mailings in the mailing job must be prepared under M920.

b. Flats and irregular parcel mailings prepared in sacks that are part of a mailing job that contain only an automation flats mailing under E240 and a Presorted rate mailing under E220 must be presorted under the co-sacking standards in M910.

c. Sacked mailing jobs that contain only a carrier route mailing and a Presorted rate mailing may be separately sacked under M210 and M220, or may be prepared using the merged sacking option under M920.

* * * * *

1.5 Low-Volume Packages and Sacks

[Amend redesignated 1.5 to change internal references and to correct the names of applicable pallet levels to read as follows:]

As a general exception to 2.2a through 2.2c and 4.0a through 4.0d, nonletter-size Periodicals may be prepared in 5-digit and 3-digit packages containing fewer than six pieces when the publisher determines that such preparation improves service, provided those packages are placed in 5-digit, 3-digit, and SCF sacks. These low-volume packages may be placed on 5-digit scheme, 5-digit, 3-digit, and SCF pallets under M045, or on merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, merged 5-digit, 5-digit, 3-digit, or SCF pallets under M920, M930, and M940.

[Delete 1.6.]

[Redesignate 1.7 as 1.6 and amend by deleting ''or pallets'' from the end of the first sentence, by deleting ''sacks or'' from the end of the second sentence, by changing the section number references, and by adding a new last sentence to read as follows:]

1.6 Merged Palletization of Nonletter-Size Carrier Route, Automation Rate, and Presorted Rate Mail

Under the standards in M920, nonletter-size firm and 5-digit packages that are prepared under 1.0 and under 2.2a and 2.2b may be co-sacked with nonletter-size firm and carrier route packages prepared under M220 and with nonletter-size 5-digit packages at automation rates prepared under M820 in merged 5-digit sacks and in merged 5-digit scheme sacks. Under the standards in M920, M930, or M940, nonletter-size firm and 5-digit packages that are prepared under 1.0, 2.2a, and 2.2b may be copalletized with nonletter-size firm and carrier route packages prepared under M220 and with nonletter-size 5-digit packages at automation rates prepared under M820 on merged 5-digit pallets and on merged 5-digit scheme pallets. See 1.2a for information on when preparation under M920 may be required.

2.0 PACKAGE PREPARATION

2.1 General

Package preparation is subject to M020 and the specific standards below.

[Delete 2.2 and 2.3; redesignate 2.4 as 2.2 and amend to delete information on carrier route packages to read as follows:]

2.2 Package Preparation

Package size, preparation sequence, and labeling:

a. Firm: optional (two-piece minimum); blue Label F or optional endorsement line (OEL).

b. 5-digit: required (six-piece minimum, fewer not permitted except under 1.5); red Label D or OEL; labeling optional for mail placed in full 5-digit trays.

c. 3-digit: required (six-piece minimum, fewer not permitted except under 1.5); green Label 3 or OEL.

d. ADC: required (six-piece minimum, fewer not permitted); pink Label A or OEL.

e. Mixed ADC: required (no minimum); tan Label MXD or OEL.

[Redesignate 3.0 as 4.0 and redesignate 4.0 as 3.0, amend redesignated 3.0 and 4.0, respectively, by consolidating former subsections into a single section for trays and a single section for sacks to read as follows:]

3.0 TRAY PREPARATION (LETTER-SIZE PIECES)

Tray size, preparation sequence, and labeling (Line 1 and 2):

a. 5-digit: required at 24 pieces, optional with one six-piece package minimum.

(1) Line 1: use 5-digit ZIP Code destination of packages, preceded for military mail by the prefixes under M031.

(2) Line 2: ''LTRS 5D NON BC.''

b. 3-digit: required at 24 pieces (no minimum for required origin/optional entry 3-digit(s)), optional with one six-piece package minimum.

(1) Line 1: use L002, Column A.

(2) Line 2: ''LTRS 3D NON BC.''

c. ADC: required at 24 pieces, optional with one six-piece package minimum.

(1) Line 1: use L004.

(2)+ Line 2: ''LTRS ADC NON BC.''

d. Mixed ADC: required (no minimum).

(1) Line 1: use ''MXD'' followed by the city/state/ZIP of the ADC serving the 3-digit ZIP Code of the entry post office, as shown in L004.

(2) Line 2: ''LTRS NON BC WKG.''

4.0 SACK PREPARATION (FLAT-SIZE PIECES AND IRREGULAR PARCELS)

For mailing jobs that also contain an automation rate mailing see 1.2 and M910 or M920. For other mailing jobs, the following are the sack size, preparation sequence, and lines 1 and 2 labeling:

a. 5-digit: required at 24 pieces, optional with one six-piece package minimum except under 1.5.

(1) Line 1: use 5-digit ZIP Code destination of packages, preceded for military mail by the prefixes under M031.

(2) Line 2: ''PER'' or NEWS,'' as applicable, followed by ''FLTS'' or ''IRREG,'' as applicable, and ''5D NON BC.''

b. 3-digit: required at 24 pieces, optional with one six-piece package minimum except under 1.5.

(1) Line 1: use L002, Column A.

(2) ''PER'' or ''NEWS,'' as applicable, followed by ''FLTS'' or ''IRREG,'' as applicable, and ''5D NON BC.''

c. SCF: required at 24 pieces, optional with one six-piece package minimum except under 1.5.

(1) Line 1: use L002, Column C.

(2) Line 2: ''PER'' or ''NEWS,'' as applicable, followed by ''FLTS'' or ''IRREG,'' as applicable, and ''SCF NON BC.''

d. Origin/entry SCF: required for the SCF of the origin (verification) office, optional for the SCF of an entry office other than the origin office, (no minimum); for Line 1 use L002, Column C.

(1) Line 1: use L002, Column C.

(2) Line 2: ''PER'' or ''NEWS,'' as applicable, followed by ''FLTS'' or ''IRREG,'' as applicable, and ''SCF NON BC.''

e. ADC: required at 24 pieces, optional with one six-piece package minimum.

(1) Line 1: use L004.

(2) Line 2: ''PER'' or ''NEWS,'' as applicable, followed by ''FLTS'' or ''IRREG,'' as applicable, and ''ADC NON BC.''

f. Mixed ADC: required (no minimum).

(1) Line 1: use ''MXD'' followed by the city/state/ZIP of the ADC serving the 3-digit ZIP Code of the entry post office, as shown in L004.

(2) Line 2: ''PER'' or ''NEWS,'' as applicable, followed by ''FLTS'' or ''IRREG,'' as applicable, and ''NON BC WKG.''

* * * * *

[Add new M220 to read as follows:]

M220 Carrier Route Periodicals Mail

Summary. M220 describes the basic standards for Periodicals carrier route mailings including package and tray preparation for letters, and package and sack preparation for flats and irregular parcels. Additional requirements for preparing mail on pallets are in M041 and M045, or M041 and M920, M930, or M940. For standards on automation rate Periodicals mailings see E240 and M810 (letters) or M820 (flats), as applicable. For standards on Presorted rate mailings see E220 and M210.

1.0 BASIC STANDARDS

1.1 General Preparation Standards

The following standards must be met for carrier route mailings:

a. All pieces in each carrier route Periodicals mailing must be in the same processing category.

b. Letter-size pieces must be packaged under 2.0 and prepared in trays under 3.0. Trays prepared under this section may subsequently be palletized under M041 and M045.

c. Nonletter-size pieces must be packaged under 2.0. Packages placed on pallets must meet additional packaging standards under M045.

d. Packages of nonletter-size pieces must be sacked or palletized as follows:

(1) sacked under 4.0 or, if eligible, under M920; or

(2) palletized under M041 and M045, M920, M930, or M940.

e. Sacks prepared under 4.0 may subsequently be prepared on pallets under M041 and M045.

d. All pieces must be sorted together to the finest extent required under the applicable sortation standards described above.

e. Postmasters may authorize preparation of small mailings in non-postal containers if they consist primarily of packages for local ZIP Codes, do not exceed 20 pounds, and do not require postal transportation for processing.

[Copy former M200.1.2 as M210.1.2 and add the following as the last sentence:]

1.2 Documentation

* * * Documentation of sequencing and of density standards under M050 must be submitted with each mailing.

[Change the title of redesignated 1.3 from ''Basic Carrier Route and Walk Sequence'' to ''Sequencing Standards.'']

[Copy former M200.1.4 as M220.1.4.]

1.5 Low-Volume Packages and Sacks

As a general exception to 2.4b and 4.0b and 4.0c, nonletter-size Periodicals may be prepared in carrier route packages containing fewer than six pieces when the publisher determines that such preparation improves service, provided those packages are placed in 5-digit scheme carrier routes, or 5-digit carrier routes sacks. Low-volume carrier route packages prepared under DMM M920 may also be placed in merged 5-digit scheme, 5-digit scheme carrier routes, merged 5-digit, and 5-digit carrier routes sacks. These low-volume packages also may be placed on 5-digit scheme carrier routes, 5-digit scheme, 5-digit carrier routes, 5-digit, 3-digit, and SCF pallets under M045, or on merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, merged 5-digit, 5-digit carrier routes, 5-digit, 3-digit and SCF pallets under M041 and M920, M930, or M940.

[Copy current M200.1.7 as M220.1.6 and amend by deleting ''or pallets'' from the end of the first sentence, by adding a new second sentence, by deleting ''sacks or'' from the end of the third sentence, and by changing the section number references, to read as follows:]

1.6 Merged Containerization of Nonletter-Size Carrier Route, Automation Rate, and Presorted Rate Mail

Under the standards in M920, nonletter-size firm and carrier route packages that are prepared under 1.0 and 2.4 may be co-sacked with nonletter-size 5-digit packages prepared under M210 and with nonletter-size 5-digit packages at automation rates prepared under M820 in merged 5-digit sacks and in merged 5-digit scheme sacks or pallets. For sacked mailing jobs of nonletters that contain an automation and a Presorted rate mailing as well as a carrier route mailing, preparation under M920 is required unless mailers elect to prepare the automation and Presorted rate mailings under M910 (see M210.1.2a) and prepare the carrier route mailing under M220. Under the standards in M920, M930, or M940, nonletter-size firm and carrier route packages that are prepared under 1.0 and 2.4 may be copalletized with nonletter-size 5-digit packages prepared under M210 and with nonletter-size 5-digit packages at automation rates prepared under M820 on merged 5-digit pallets and on merged 5-digit scheme pallets.

2.0 PACKAGE PREPARATION

2.1 General

Package preparation is subject to M020 and the specific standards below.

2.2 Optional Higher Package Minimums

A mailer may choose to prepare carrier route packages at a higher level of route saturation (for example, only if there are at least 15 pieces per route). Under this option, smaller groups of six or more pieces per carrier route not prepared in carrier route packages for carrier route rates must be prepared for and paid at another applicable rate.

2.3 Walk-Sequence Identification

In addition to the package label showing carrier route type and number under 2.4, each package of Periodicals walk-sequence mail must show that the mail is walk sequenced and the level of sequencing. A facing slip with the phrase ''HIGH DENSITY WALK-SEQUENCED CARRIER ROUTE MAIL'' or ''SATURATION WALK-SEQUENCED CARRIER ROUTE MAIL'' (as applicable) may be placed on the top of each package of walk-sequence mail. It may be an address label with the required information placed on a sample mailpiece that is the top piece in the package, or a slip of paper affixed to the top of the package. If packages are prepared without facing slips, an optional endorsement line or carrier route information line must be placed on each piece in the package to provide the equivalent information.

2.4 Package Preparation

Package size, preparation sequence, and labeling:

a. Firm: optional (two-piece minimum); blue Label F or optional endorsement line (OEL).

b. Carrier route: optional but required for rate eligibility (six-piece minimum, fewer not permitted except under 1.5); labeling required except for packages placed in a direct carrier route tray or sack (facing slip, OEL, or CR information line).

3.0 TRAY PREPARATION (LETTER–SIZE PIECES)

Tray size, preparation sequence, and Line 1 and 2 labeling:

a. Carrier route: required for rate eligibility at 24 pieces, optional with one six-piece package minimum.

(1) Line 1: use 5-digit ZIP Code destination of packages, preceded for military mail by the prefixes under M031.

(2) Line 2: ''PER'' or ''NEWS,'' as applicable, followed by ''LTRS,'' followed by ''WSS'' for saturation rate mail, or ''WSH'' for high density rate mail, or ''CR'' for basic rate mail, and followed by the route type and number.

b. 5-digit carrier routes: required for rate eligibility if full tray, optional with minimum one six-piece package.

(1) Line 1: use 5-digit ZIP Code destination of packages, preceded for military mail by the prefixes under M031.

(2) Line 2: ''PER'' or ''NEWS,'' as applicable, followed by ''LTRS CR–RTS.''

c. 3-digit carrier routes: optional with minimum one six-piece package for each of two or more 5-digit areas.

(1) Line 1: use the city/state/ZIP shown in L002, Column A that corresponds to the 3-digit ZIP Code prefix of packages.

(2) Line 2: ''PER'' or ''NEWS,'' as applicable, followed by ''LTRS 3D CR–RTS.''

4.0 SACK PREPARATION (FLAT-SIZE PIECES AND IRREGULAR PARCELS)

Sack size, preparation sequence, and Line 1 and 2 labeling:

a. Carrier route: required for rate eligibility at 24 pieces, fewer pieces not permitted.

(1) Line 1: use 5-digit ZIP Code destination of packages, preceded for military mail by the prefixes under M031.

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''WSS'' for saturation rate mail, or ''WSH'' for high density rate mail, or ''CR'' for basic rate mail, and followed by the route type and number.

b. 5-digit scheme carrier routes: required for rate eligibility (no minimum).

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''CR–RTS SCH.''

c. 5-digit carrier routes: required for rate eligibility (no minimum).

(1) Line 1: use 5-digit ZIP Code destination of packages, preceded for military mail by the prefixes under M031.

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''CR–RTS.''

[Copy current M200.5.0 and add as M220.5.0.]

[Copy current M200.6.0 and add as M220.6.0.]

* * * * *

M800 All Automation Mail

M820 Flat-Size Mail

1.0 Basic Standards

* * * * *

1.8 Exception—Periodicals Preparation

[Amend 1.8 by replacing the last sentence with the following:]

These low-volume packages may be placed on 5-digit scheme carrier routes, 5-digit scheme, 5-digit carrier routes, 5-digit, 3-digit, and SCF pallets under M041 and M045, or on merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, merged 5-digit, 5-digit carrier routes, 5-digit, 3-digit, and SCF pallets under M041 and either M920, M930, or M940.

1.9 Co-Traying, Co-Sacking, or Copalletizing with Presorted Rate Mail

Packages of First-Class and Standard Mail (A) prepared under 1.0 and either 2.1 or 4.1, as applicable, may be co-trayed or co-sacked with Presorted rate mail that is part of the same mailing job and mail class at all levels of tray or sack under the provisions of M910. For sacked mailings of Periodicals nonletters, packages of Periodicals automation flats mail prepared under 1.0 and 3.1 that are part of the same mailing job as a Presorted rate mailing of nonletters must be co-sacked under M910, unless the mailing job also contains a carrier route mailing and is eligible for and prepared under M920. See M210.

* * * * *

3.0 Periodicals

* * * * *

3.2 Sack Preparation

[Revise the first sentence of 3.2 to read as follows:]

For mailing jobs that also contain a Presorted rate mailing see 1.9 and M910. For other mailing jobs, the following are the sack size, preparation sequence and line 1 labeling: * * *

* * * * *

An appropriate amendment to 39 CFR to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00–27706 Filed 10–27–00; 8:45 am]

BILLING CODE 7710–12–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 85

[FRL–6892–1]

RIN 2060–AJ03

Amendments to Vehicle Inspection Maintenance Program Requirements Incorporating the Onboard Diagnostic Check; Reopening of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Reopening of comment period.

SUMMARY: This document reopens the public comment period for above-named notice of proposed rulemaking, published Wednesday, September 20, 2000, at 65 FR 56844–56856. The deadline for public comments is being reopened from the original deadline for public comments of October 20, 2000, to November 13, 2000. This reopening is in response to a request received prior to the close of the original comment period.

DATES: Written comments must be received no later than November 13, 2000.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–2000–16. It is requested that a duplicate copy be submitted to David Sosnowski at the address in the **FOR FURTHER INFORMATION CONTACT** section below. The docket is located at the Air Docket, Room M–1500 (6102), Waterside Mall S.W., Washington, DC 20460. The docket may be inspected between 8:30 a.m. and 12 noon and between 1:30 p.m. until 3:30 p.m. on weekdays. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: David Sosnowski, Office of Mobile Sources, Regional and State Programs Division, 2000 Traverwood, Ann Arbor, Michigan, 48105. Telephone (734) 214–4823.

List of Subjects

40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 85

Environmental protection, Confidential business information, Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

Dated: October 19, 2000.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 00–27404 Filed 10–27–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG09

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on the Proposed Endangered Status for Three Plants From the Mariana Islands and Guam

AGENCY: Fish and Wildlife Service, Interior.

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

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice of a public hearing on the proposed endangered status for three plants, *Nesogenes rotensis, Osmoxylon marianense*, and *Tabernaemontana rotensis* from the Mariana Islands and Guam. In addition, the comment period which originally closed on July 17, 2000, will be reopened. The new comment period and hearing will allow all interested parties to submit oral or written comments on the proposal. We are seeking comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties concerning the proposed rule. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination.

DATES: The comment period for this proposal now closes on November 29, 2000. Any comments received by the closing date will be considered in the final decision on this proposal. The public hearing will be held from 6 p.m. to 8 p.m. on Thursday, November 16, 2000, on the island of Rota (Luta), Commonwealth of the Northern Mariana Islands. Prior to the public hearing, the Service will be available from 5 to 6 p.m. to provide information and to answer questions.

ADDRESSES: The public hearing will be held at the Rota Resort and Country Club, Rota, CNMI. Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Ecoregion Office, 300 Ala Moana Boulevard, room 3–122, P.O. Box 50088, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Henson, at the above address, phone 808–541–3441, facsimile 808–541–3470.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2000, the Service published a proposed rule to list three plants from the Mariana Islands and Guam as endangered species, pursuant to the Endangered Species Act of 1973, as amended (Act) in the **Federal Register** (65 FR 35025). The original comment period closed on July 17, 2000. The comment period now closes on November 29, 2000. Written comments should be submitted to the Service (see **ADDRESSES** section).

Nesogenes rotensis and *Osmoxylon marianense* are found only on the island of Rota, Commonwealth of the Northern Mariana Islands (CNMI). *Tabernaemontana rotensis* occurs on both Rota and the United States Territory of Guam. The three plant species and their habitats have been affected or are now threatened by fire, development/road work, typhoons/storms, nonnative plants, and collecting/trampling by humans. This proposal, if made final, would implement the Federal protection and recovery provisions of the Act.

Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 *et seq.*), requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to a request from a government agency of the CNMI, the Service will hold a public hearing on the date and at the address described in the **DATES** and **ADDRESSES** sections above.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to the Service at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearing or mailed to the Service. Legal notices announcing the date, time, and location of the hearing will be published in newspapers concurrently with the **Federal Register** notice.

Comments from the public regarding the accuracy of this proposed rule are sought, especially regarding:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to these species;

(2) The location of any additional populations of these species and reasons why any habitat should or should not be designated as critical habitat;

(3) Additional information on the range, distribution, and population size of these species; and

(4) Current or planned activities in the subject area and their possible impacts on these species.

Reopening of the comment period will enable the Service to respond to the request for a public hearing on the proposed action. The comment period on this proposal now closes on November 29, 2000. Written comments should be submitted to the Service office listed in the **ADDRESSES** section.

Author:

The primary authors of this notice Benton Pang and Christa Russell (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: September 22, 2000.

Rowan W. Gould,

Acting Regional Director, Region 1, Fish and Wildlife Service.

[FR Doc. 00–25907 Filed 10–27–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN: 1018–AH64

Migratory Bird Hunting; Approval of Tungsten-Nickel-Iron Shot as Nontoxic for Hunting Waterfowl and Coots

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We propose to approve shot formulated of tungsten, nickel, and iron as nontoxic for hunting waterfowl and coots. We assessed possible effects of the tungsten-nickel-iron (t-n-i) shot, and have made a preliminary determination that it is not a significant threat to wildlife or their habitats and that further testing of t-n-i shot is not necessary. In addition, approval of t-n-i shot may induce more waterfowl hunters to switch away from lead shot, reducing lead risks to species and habitats.

DATES: Comments on the proposed rule must be received no later than November 29, 2000.

ADDRESSES: You may send comments about this proposal to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 634, Arlington, Virginia 22203–1610. You may inspect comments during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Jon Andrew, Chief, or Dr. George T. Allen, Division of Migratory Bird Management, 703–358–1714.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–712 and 16 U.S.C. 742 a–j) implements migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union, 1978). These treaties protect certain migratory birds from take, except as permitted under the Act. The Act authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, the Fish and Wildlife Service controls the hunting of migratory game birds through regulations in 50 CFR part 20.

Since the mid-1970s, we have sought to identify shot that does not pose a significant toxicity hazard to migratory birds or other wildlife. Compliance with the use of nontoxic shot has increased over the last few years (Anderson *et al.* 2000). We believe that it will continue to increase with the approval and availability of other nontoxic shot types. Currently, steel, bismuth-tin, tungsten-iron, tungsten-polymer, and tungsten-matrix shot are approved as nontoxic. On September 25, 2000 (65 FR 57586–57588), we published a proposed rule to grant temporary approval to tin shot. The purpose of this proposed rule is to approve the use of t-n-i shot in the tested formulation (50% tungsten, 35% nickel, and 15% iron by weight) for waterfowl and coot hunting. We propose to amend 50 CFR 20.21 (j), which describes prohibited types of shot for waterfowl and coot hunting.

On April 9, 1999 (64 FR 17308–17309), we announced receipt of an application from Standard Resources Corporation (Standard) of Cherry Hill, New Jersey for nontoxic approval of HEVI–METAL shot in the 50% tungsten, 35% nickel, 15% iron formulation. The density of the shot in that formulation is 11.0 grams/cm^3. The manufacturer believes that the shot does not need a coating because it is sufficiently noncorrosive under neutral pH. It is not chemically or physically altered by firing from a shotgun.

On April 19, 1999 (64 FR 19191), we announced that Standard's application did not provide sufficient information for us to conclude that the candidate shot is not a significant danger to migratory birds. We advised Standard to proceed with additional testing of the candidate shot. Subsequently, development of HEVI–METAL was transferred to ENVIRON-Metal, Inc., of Albany, Oregon (Environ-metal), and the shot was re-named HEVI–SHOT™.

On August 10, 2000, Environ-metal submitted an application for permanent approval of the t-n-i shot as nontoxic for hunting waterfowl and coots. The application included a description of the shot, results and a toxicological report of a preliminary 30-day dosing study of the toxicity of the shot in game-farm mallards (Ecological Planning and Toxicology, Inc. [EPT] 1999), and results of a more comprehensive 30-day acute toxicity study (Brewer and Fairbrother 2000).

Toxicity Information. Tungsten may be substituted for molybdenum in enzymes in mammals. Ingested tungsten salts reduce growth, and can cause diarrhea, coma, and death in mammals (*e.g.* Bursian *et al.* 1996, Cohen *et al.* 1973, Karantassis 1924, Kinard and Van de Erve 1941, National Research Council 1980, Pham-Huu-Chanh 1965), but elemental tungsten is virtually insoluble and therefore essentially nontoxic. In rats, a dietary concentration of 94 parts-per-million (ppm) did not reduce weight gain in growing rats (Wei *et al.* 1987). Lifetime exposure to 5 ppm tungsten as sodium tungstate in drinking water produced no discernible adverse effects in rats (Schroeder and Mitchener 1975). At 100 ppm tungsten as sodium tungstate in drinking water, rats had decreased enzyme activity after 21 days (Cohen *et al.* 1973). These studies indicate that tungsten salts are very toxic to mammals.

Chickens given a complete diet showed no adverse effects of 250 ppm sodium tungstate administered for 10 days in the diet. However, 500 ppm in the diet had detrimental effects on day-old chicks (Teekell and Watts 1959). Adult hens had reduced egg production and egg weight on a diet containing 1,000 ppm tungsten (Nell *et al.* 1981a). EPT (1999) concluded that 250 ppm in the diet would produce no observable adverse effects. Kelly *et al.* (1998) demonstrated no adverse effects on mallards dosed with tungsten-iron or tungsten-polymer shot according to nontoxic shot test protocols.

Most toxicity tests reviewed were based on soluble tungsten compounds rather than elemental tungsten. As we found in our reviews of other tungsten shot types, we believe that there is no basis for concern about the toxicity of the tungsten in t-n-i shot to fish, mammals, or birds.

Nickel is a dietary requirement of mammals, with necessary consumption set at 50 to 80 parts per billion for the rat and chick (Nielsen and Sandstead 1974). Though it is necessary for some enzymes, nickel can compete with

calcium, magnesium, and zinc for binding sites on many enzymes. Water-soluble nickel salts are poorly absorbed if ingested by rats (Nieboer *et al.* 1988). Nickel carbonate caused no treatment effects in rats fed 1,000 ppm for 3 to 4 months (Phatak and Patwardhan 1952). Rats fed 1,000 ppm nickel sulfate for 2 years showed reduced body and liver weights, an increase in the number of stillborn pups, and decrease in weanling weights through three generations (Ambrose *et al.* 1976). Nickel chloride was even more toxic; 1,000 ppm fed to young rats caused weight loss in 13 days (Schnegg and Kirchgessner 1976).

Soluble nickel salts can be classified as very toxic to mammals, with an oral LD_{50} of 136 mg/kg in mice, and 350 mg/kg in rats (Fairchild *et al.* 1977). Nickel catalyst (finely divided nickel in vegetable oil) fed to young rats at 250 ppm for 16 months, however, produced no detrimental effects (Phatak and Patwardhan 1952).

In chicks from hatching to 4 weeks of age, 300 ppm nickel as nickel carbonate or nickel acetate in the diet produced no observed adverse effects. However, concentrations of 500 ppm or more reduced growth (Weber and Reid 1968). A diet containing 200 ppm nickel as nickel sulfate had no observed effects on mallard ducklings from 1 to 90 days of age. Diets of 800 ppm or more caused significant changes in physical condition of the ducklings (Cain and Pafford 1981). Eastin and O'Shea (1981) observed no apparent significant changes in pairs of breeding mallards fed diets containing up to 800 ppm nickel as nickel sulfate for 90 days.

Iron is an essential nutrient, so reported iron toxicosis in mammals is primarily a phenomenon of overdosing of livestock. Maximum recommended dietary levels of iron range from 500 ppm for sheep to 3,000 ppm for pigs (National Research Council [NRC] 1980). Chickens require at least 55 ppm iron in the diet (Morck and Austic 1981). Chickens fed 1,600 ppm iron in an adequate diet displayed no ill effects (McGhee *et al.* 1965). Turkey poults fed 440 ppm in the diet suffered no adverse effects. The tests in which eight #4 tungsten-iron shot were administered to each mallard in a toxicity study indicated that the 45% iron content of the shot had no adverse effects on the test animals (Kelly *et al.* 1998).

Environmental Fate: Elemental tungsten and iron are virtually insoluble in water and do not weather and degrade in the environment. Tungsten is stable in acids and does not easily form compounds with other substances. Preferential uptake by plants in acidic soil suggests uptake of tungsten when it has formed compounds with other substances rather than when it is in its elemental form (Kabata-Pendias and Pendias 1984).

Nickel is common in fresh waters, though usually at concentrations of less than 1 part per billion in locations unaffected by human activities. Pure nickel is not soluble in water. Free nickel may be part of chemical reactions, such as sorption, precipitation, and complexation. Reactions of nickel with anions are unlikely. Complexation with organic agents is poorly understood (U.S. Environmental Protection Agency [EPA] 1980). Water hardness is the dominant factor governing nickel effects on biota (Stokes 1988).

Environmental Concentrations: Calculation of the estimated environmental concentration (EEC) of a candidate shot in a terrestrial ecosystem is based on 69,000 shot per hectare (Bellrose 1959, 50 CFR 20.134). Assuming complete dissolution of the shot, the EEC for tungsten in soil is 19.3 mg/kg. The EECs for nickel and iron would be 7.7 and 3.3 mg/kg, respectively. The EEC for nickel (the only one of the three elements with an application limit) is substantially below the U.S. Environmental Protection Agency (EPA) biosolid application limit. The 3.3 mg/kg EEC for nickel also is far below the 16 to 35 mg/kg concentrations suggested as minimum sediment concentrations at which effects of the metal are likely to occur (EPA 1997, Ingersoll *et al.* 1996, Long and Morgan 1991; MacDonald *et al.* 2000, Smith *et al.* 1996). The EEC for tungsten from t-n-i shot is below that for the already-approved tungsten-matrix shot. The EEC for iron is less than 0.01% of the typical background concentration, and the iron is in an insoluble form.

Calculation of the EEC in an aquatic ecosystem assumes complete erosion of the 69,000 shot/hectare in water 1 foot deep. The EECs for the elements in t-n-i shot in water are 2,348 µg/L for tungsten, 1,643 µg/L for nickel, and 704 µg/L for iron. We concluded that a tungsten concentration of 10,500 µg/L posed no threat to aquatic biota (62 FR 4877–4879). The EEC for nickel, if the shot were completely dissolved, would exceed the EPA acute water quality criterion of 1,400 µg/L in fresh water, and would greatly exceed the 75 µg/L criterion for salt water. However, tests showed that corrosion of t-n-i shot is negligible in neutral pH fresh water. Actual tests in water with a pH of 2 showed that the EEC for nickel would be 83.98 µg/L, and in salt water it would be 7.92 µg/L; both are far below the EPA criterion of 160 µg/L for chronic exposure.

Effects on Birds. Kraabel *et al.* (1996) surgically embedded tungsten-bismuth-tin (t-b-t) shot in the pectoralis muscles of ducks to simulate wounding by gunfire and to test for toxic effects of the shot. The authors found that t-b-t shot neither produced toxic effects nor induced adverse systemic effects in the ducks during the 8-week period of their study.

Nell *et al.* (1981a) fed laying hens (*Gallus domesticus*) 0.4 or 1.0 g/kg tungsten in a commercial mash for five months to assess reproductive performance. Weekly egg production was normal, and hatchability of fertile eggs was not affected. Exposure of chickens to large doses of tungsten either through injection or by feeding resulted in an increased tissue concentration of tungsten and a decreased concentration of molybdenum (Nell *et al.* 1981b). The loss of tungsten from the liver occurred in an exponential manner, with a half-life of 27 hours. The alterations in molybdenum metabolism seemed to be associated with tungsten intake rather than molybdenum deficiency. Death due to tungsten occurred when tissue concentrations increased to 25 ppm in the liver. At that concentration, xanthine dehydrogenase activity was zero.

Toxicity Studies. Ringelman *et al.* (1993) conducted a 32-day acute toxicity study that involved dosing game-farm mallards with a shot alloy which was 39%, 44.5%, and 16.5% by weight, respectively. No dosed birds died during the trial, and behavior was normal. Post-euthanization examination of tissues revealed no toxicity or damage related to shot exposure. Blood calcium differences between dosed and undosed birds were judged to be unrelated to shot exposure. That study indicated that tungsten presented little hazard to waterfowl.

Initial analyses of corrosion of t-n-i metal in 0.1N HCl and in seawater indicated that t-n-i shot is more corrosion resistant than copper-plated tungsten-iron shot and steel shot, and that it will release tungsten into the environment more slowly than does tungsten-iron shot. In addition, only a portion of the tungsten is soluble, and not all of that is absorbed. Therefore, EPT (1999) suggested that ingested t-n-i shot should pose minimal risks to migratory birds that might ingest it.

EPT conducted a preliminary 30-day oral toxicity study of t-n-i shot that followed the general approach outlined for a short-term acute toxicity test (50 CFR 20.134). Eight #4 t-n-i shot pellets

were administered to each of three healthy adult male and three healthy adult female mallards by placing them in a gelatin capsule and placing the capsule in the bird's gizzard. All of the birds retained seven or eight of the pellets for the 30-day test period. During that time the birds behaved normally, and none of them exhibited signs of metal intoxication. Body weights of the birds did not change significantly during the test period.

Upon postmortem examination, all body organs looked normal. Histopathology showed that one of the females had a fatty liver, and also had elevated liver enzymes. Liver abnormalities due to fatty changes (accumulation of glycogen or fat) were considered the likely cause of the problem.

Brewer and Fairbrother (2000) reported on the outcome of more extensive corrosion/erosion testing of t-n-i shot, and steel and lead shot. Eight #4 t-n-i shot pellets were administered to each of 20 male mallards and 20 female mallards by placing the shot in a gelatin capsule and placing the capsule in the bird's gizzard. The same procedure was followed for dosing 20 male mallards and 20 female mallards with 8 #4 steel shot, and for dosing 5 males and 5 females with 8 #4 lead shot. The birds had been fasting prior to placement of the gelatin capsules to facilitate movement of the capsule to the gizzard. During the 30-day test period, the researchers monitored loss of shot through the digestive system, and they determined retention of shot in the gizzard upon necropsy. They also carefully monitored food consumption of the test birds and their health.

No mortality occurred in birds treated with t-n-i shot or steel shot. Nine of the ten birds dosed with lead died during the test period. Therefore, most measures of health and measures of shot erosion were not valid for the lead-dosed group. No significant differences in body weight changes emerged between the steel shot group and the t-n-i shot group during the test period.

The evaluation focused on corrosion/erosion of the steel shot and the t-n-i shot, and associated changes in organs and blood chemistry. A total of 134 of the t-n-i shot pellets and 138 of the steel shot were recovered from the gizzards of the test birds after 30 days. T-n-i shot pellets recovered from gizzards at the end of the test retained an average of 88.6% of their initial weight; steel pellets retained an average of 49.7% of their weight.

Histopathological examination of kidney tissues from the 41 ducks alive at the end of the test period revealed no significant lesions. Livers also appeared to have been unaffected by steel pellets or t-n-i shot. Hemoglobin, white blood cell counts, hematocrits, and blood serum chemistry results did not differ between the steel shot test group and the t-n-i shot test group, with the exception that the mean for plasma protein was significantly higher in the t-n-i shot-treated ducks.

Analytical chemistry of liver, kidney, and blood samples showed some differences between the steel shot and t-n-i shot test groups. Mean tungsten concentrations in blood, liver, and kidney tissues were 0.24 ppm in the blood, 0.64 ppm in kidney tissue, and 1.65 ppm in liver tissue. No tungsten was detected in tissues of mallards dosed with steel shot. Mean nickel concentrations in blood (0.03 ppm), liver (0.09 ppm), and kidney (0.44 ppm) tissues were significantly higher in ducks dosed with t-n-i shot than in those dosed with steel shot. Mean nickel concentrations in blood, liver, and kidney tissues of mallards treated with 800 ppm in the diet for 90 days were 0.139, 0.52, and 1.94 ppm, respectively (Eastin and O'Shea 1991). Those ducks suffered no apparent ill effects from their treatment. Mean iron concentrations in the blood and liver were higher for the ducks dosed with steel shot, but kidney concentrations did not differ.

EPT (1999) calculated that the mallards studied by Eastin and O'Shea (1981) consumed approximately 102 mg of nickel each day during the study. Under the Tier 2 protocol, each test mallard is dosed with 8 #4 shot at 0, 30, 60, and 90 days, which in the case of t-n-i shot would contain a total of 32 shot, and 2.3 g of nickel per bird. At pH 2, with continual grinding of ingested shot, eight #4 pellets would lose 0.176 mg of nickel per day. The maximum exposure for a mallard under such conditions would be 0.704 mg/day, substantially less than the estimated consumption by mallards in the Eastin and O'Shea study (EPT 1999). We believe, therefore, that consumption of nickel from t-n-i shot is unlikely to have detrimental effects on waterfowl.

Ingestion by Fish, Amphibians, Reptiles, or Mammals. Based on the available information and past reviews of tungsten-based shot, we expect no detrimental effects due to tungsten or iron on animals that might ingest t-n-i shot. However, we know of no studies of ingestion of nickel by herpetofauna. In the worst case, assuming complete erosion of a #4 t-n-i shot pellet equal to that found in a mallard gizzard, exposure to a vertebrate would be approximately 0.022 mg of nickel per day if the shot were retained in the animal. The exposure actually would be substantially less because a shot pellet likely would not be retained in most animals that might consume one.

Nontoxic Shot Approval

The first condition for nontoxic shot approval is toxicity testing. Based on the results of the toxicological reports and the toxicity tests, we preliminarily conclude that t-n-i shot does not pose a significant danger to migratory birds, other wildlife, or their habitats.

The second condition for approval is testing for residual lead levels. Any shot with a lead level of 1% or more will be illegal. We determined that the maximum environmentally acceptable level of lead in shot is 1%, and incorporated this requirement in the nontoxic shot approval process we published in December 1997 (62 FR 63608–63615). ENVIRON-Metal, Inc. has documented that t-n-i shot meets this requirement.

The third condition for approval involves enforcement. In 1995 (60 FR 43314), we stated that approval of any nontoxic shot would be contingent upon the development and availability of a noninvasive field testing device. This requirement was incorporated in the nontoxic shot approval process. T-n-i shotshells can be drawn to a magnet as a simple field detection method.

For these reasons, and in accordance with 50 CFR 20.134, we intend to approve t-n-i shot as nontoxic for migratory bird hunting, and propose to amend 50 CFR 20.21(j) accordingly. It is based on the toxicological reports, acute toxicity studies, and assessment of the environmental effects of the shot. Those results indicate no deleterious effects of t-n-i shot to ecosystems or when ingested by waterfowl. Because the testing of t-n-i shot and earlier testing of shot types containing tungsten and iron indicated no environmental problems, we do not believe Tier 3 testing of t-n-i shot is necessary.

Public Comments Solicited

Our past experience with nontoxic shot approvals has been that 30 days is sufficient time for those interested in these actions to comment. Also, tungsten and iron already have been reviewed extensively for use in nontoxic shot. Therefore, we will accept comments on this proposal for a 30-day period.

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NEPA Consideration

In compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR parts 1500–1508), we prepared a draft Environmental Assessment (EA) for approval of t-n-i shot in September 2000. The draft EA is available to the public at the location indicated in the **ADDRESSES** section.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act (ESA) of 1972, as amended (16 U.S.C. 1531 *et seq.*), provides that Federal agencies shall ''insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of (critical) habitat * * *'' We are completing a Section 7 consultation under the ESA for this proposed rule. The result of our consultation under Section 7 of the ESA will be available to the public at the location indicated in the **ADDRESSES** section.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the preparation of flexibility analyses for

rules that will have a significant effect on a substantial number of small entities, which includes small businesses, organizations, or governmental jurisdictions. This rule proposes to approve an additional type of nontoxic shot that may be sold and used to hunt migratory birds; this proposed rule would provide one shot type in addition to the existing four that are approved. We have determined, however, that this proposed rule will have no effect on small entities since the approved shot merely will supplement nontoxic shot already in commerce and available throughout the retail and wholesale distribution systems. We anticipate no dislocation or other local effects, with regard to hunters and others. This rule was not subject to Office of Management and Budget (OMB) review under Executive Order 12866.

Executive Order 12866

This proposed rule is not a significant regulatory action subject to Office of Management and Budget (OMB) review under Executive Order 12866. OMB makes the final determination under E.O. 12866. We invite comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Paperwork Reduction Act

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. We have examined this regulation under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501) and found it to contain no information collection requirements. We have submitted a request for renewal of OMB approval of collection of information shot manufacturers are required to provide to us for the nontoxic shot approval process. For further information see 50 CFR 20.134.

Unfunded Mandates Reform

We have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502, *et seq.*, that this proposed rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform—Executive Order 12988

We, in promulgating this proposed rule, have determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This proposed rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this proposed rule will allow hunters to exercise privileges that would be otherwise unavailable; and, therefore, reduces restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. This proposed rule does not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, this proposed regulation does not have significant federalism effects and does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

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

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons discussed in the preamble, we propose to amend part 20, subchapter B, chapter I of Title 50 of the Code of Federal Regulations as follows:

PART 20—[AMENDED]

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

Authority: 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

2. Section 20.21 is amended by revising paragraph (j) to read as follows:

§ 20.21 What hunting methods are illegal?

* * * * *

(j) While possessing loose shot for muzzle loading or shotshells containing other than the previously approved shot types of steel, bismuth-tin (97 parts bismuth: 3 parts tin), tungsten-iron (40 parts tungsten: 60 parts iron), tungsten-polymer (95.5 parts tungsten: 4.5 parts Nylon 6 or 11), tungsten-matrix (95.9 parts tungsten: 4.1 parts polymer), and tungsten-nickel-iron (55% tungsten: 35% nickel: 15% iron), all of which must contain less than 1% residual lead (see § 20.134). This restriction applies to the taking of ducks, geese (including brant), swans, coots (*Fulica americana*), and any other species that make up aggregate bag limits with them during concurrent seasons in areas described in § 20.108 as nontoxic shot zones.

* * * * *

Dated: October 24, 2000.

Kenneth L. Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 00–27842 Filed 10–27–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 102300A]

New England Fishery Management Council; Public Meeting

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

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 3-day public meeting on November 14, 15, and 16, 2000, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, November 14, 2000, beginning at 9:30 a.m., and Wednesday and Thursday, November 15 and 16, at 8:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Colonial Hotel, One Audubon Road, Wakefield, MA, 01880; telephone (781) 245-9300. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465-0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465-0492.

SUPPLEMENTARY INFORMATION:

Tuesday, November 14, 2000

After introductions, the meeting will begin with a report from the Sea Scallop Committee. It will ask the Council to consider a number of issues related to action on Framework Adjustment 14 to the Fishery Management Plan (FMP) for Atlantic Sea Scallops. These issues include staff recommendations for General Category permit vessel participation in the Hudson Canyon and Virginia Beach Closed Area access program and additional Scallop Committee recommendations for inclusion in Framework 14 that relate to conditions for access. The Council's Social Sciences Advisory Panel will present its comments on the Draft Supplemental Environmental Impact Statement (DSEIS) for Framework Adjustment 14. The Council also will allow time for public comment on the Notice of Intent to prepare an SEIS. Subsequent to these agenda items, the Council intends to adopt the DSEIS. The Council is scheduled to take final action on Framework Adjustment 14 at its January 23-25, 2001, Council meeting. The Council also may request that NMFS take Interim Action to postpone the scheduled opening of the Hudson Canyon and Virginia Beach Closed Areas on March 1, 2001. The postponement, to be initiated to accommodate the preparation of the SEIS for Framework 14, would continue until the framework measures are implemented or for 180 days, whichever is earlier. In other actions under the scallop agenda item, the Council will comment on NMFS possibly allowing compensation trips to be taken by scallop vessels in the groundfish closed areas after the close of this scallop fishing year (February 28, 2001) to pay for scallop research associated with the Framework Adjustment 13 Total Allowable Catch research set-aside. Following this agenda item, the Council's Research Steering Committee will ask the Council to approve research priorities for 2001 and review the committee's actions to date to develop a program to address the next round of Congressional funds appropriated for collaborative research in New England.

Wednesday, November 15, 2000

The meeting will begin with a presentation of the 2000 Multispecies Monitoring Committee (MSMC) report, including its recommendations for revisions to management measures for the 2001 fishing year. Under the Groundfish Committee Report to follow, the Council will discuss these recommendations and identify alternatives for an annual framework adjustment to the Northeast Multispecies FMP that may be necessary to meet the goals and objectives of the plan. If an annual adjustment is necessary, this will be the initial meeting for Framework Adjustment 36 to the Northeast Multispecies FMP. Prior to a committee update on the development of Amendment 13 to the FMP, the Groundfish Overfishing Definition Review Panel Committee will present its report to the Council. The Groundfish Committee will then discuss rebuilding schedules and review committee progress to develop management alternatives, including possible refinements to the existing three broad alternatives under consideration for inclusion in the amendment (modifications based on the status quo, sector allocation alternative and area management alternative). There also will be discussion of a process for considering industry proposals and a new timeline for completion of Amendment 13 tasks. Additionally, under the Groundfish Committee Report agenda item, there will be a presentation of the National Research Council's Report on Summer Flounder and Improving the Collection, Management and Use of Fisheries Data.

Thursday, November 16, 2000

The third day of the meeting will begin with reports on recent activities from the Council Chairman, Executive Director, the NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, and representatives of the Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. The Council's Executive Director will ask for approval of a schedule of management priorities for 2001. The Habitat Committee will ask for approval of a letter to the Environmental Protection Agency concerning its power plant permitting process. Under the Monkfish Committee Report, there will be a presentation of the Stock Assessment and Fishery Evaluation (SAFE) Report for the 1999 fishing year, which will include the annual Monkfish Monitoring Committee Report. The committee will ask for Council approval of initial action on the annual framework adjustment to the Monkfish FMP. The only measure under consideration to date concerns the necessary exemptions for vessels fishing for monkfish in the Northwest Atlantic Fisheries Organization Regulated Area. The Council may identify other measures to be analyzed and considered in the framework adjustment process. The Council meeting will adjourn after addressing any other outstanding business.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

The New England Council will consider public comments at a minimum of two Council meetings before making recommendations to the National Marine Fisheries Service Regional Administrator on any framework adjustment to a fishery management plan. If she concurs with the adjustment proposed by the Council, the Regional Administrator has the discretion to publish the action either as proposed or final regulations in the Federal Register. Documents pertaining to framework adjustments are available for public review 7 days prior to a final vote by the Council.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 24, 2000.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–27817 File 10–27–00; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 65, No. 210
Monday, October 30, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. PY–01–001]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for Poultry Market News Programs.

DATES: Comments on this notice must be received by December 29, 2000.

ADDITIONAL INFORMATION OR COMMENTS: Contact Grover T. Hunter, Market News Branch, Poultry Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0262, 1400 Independence Avenue, SW, Washington, D.C. 20090–6456, (202) 720–6911 and FAX (202) 720–2403.

SUPPLEMENTARY INFORMATION:

Title: Poultry Market News Reports.

OMB Number: 0581–0033.

Expiration Date of Approval: July 31, 2001.

Type of Request: Extension of a currently approved information collection.

Abstract: Under the Agricultural Marketing Act of 1946, as amended, (7 U.S.C. 1621 *et seq.*) the Poultry Market News Branch provides nationwide coverage of broiler/fryers, turkeys, and eggs through field offices. Reporters in the Federal-State field offices make contact with trade members. The mission of Market News is to provide current unbiased, factual information to all members of the Nation's agricultural industry, from farm to retailer, depicting current conditions on supply, demand, price trend, movement, and other pertinent information affecting the trade in poultry and eggs, and their respective products. In order to accomplish this mission, Market News observes, records, interprets, and reports trading levels of poultry and egg markets. Market reports assist producer-processors in their production planning, and help promote orderly marketing by placing producer-processors and others in the industry on a more equal bargaining basis.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.83 hours per response

Respondents: Producers, processors, brokers, distributors, and retailers.

Estimated Number of Respondents: 1720.

Estimated Number of Responses per Respondent: 123.69.

Estimated Total Annual Burden on Respondents: 17,657.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Grover T. Hunter, Market News Branch, Poultry Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0262, 1400 Independence Avenue SW, Washington, D.C. 20090–6456. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: October 24, 2000.

Howard M. Magwire,

Acting Deputy Administrator, Poultry Programs.

[FR Doc. 00–27786 Filed 10–27–00– 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV00–902–1NC]

Notice of Request for Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request revision to a currently approved information collection that will merge several individual marketing order information collections into the generic information collection.

DATES: Comments on this notice must be received by December 29, 2000.

ADDITIONAL INFORMATION OR COMMENTS: Contact Valerie L. Emmer-Scott, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S., P.O. Box 96456, Washington, DC 20090–6456; Tel: (202) 205–2829, Fax: (202) 720–5698, or E-mail: moab.docketclerk@usda.gov.

Small businesses may request information on this notice by contacting Jay Guerber, Regulatory Fairness Representative, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, D.C., 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Marketing Orders for Fruit Crops.

OMB Number: 0581–0189.

Expiration Date of Approval: April 30, 2003.

Type of Request: Revision of a currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in specified production areas, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674) industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the AMAA, to provide the respondents the type of service they request, and to administer the marketing order programs. Under the Act, orders may authorize the following: production and marketing research, including paid advertising, volume regulations, reserves, including pools and producer allotments, container regulations, and quality control. Production and marketing research activities are paid for by assessments levied on handlers regulated under the marketing orders.

Under the marketing orders, producers and handlers are nominated by their respective peers. These nominees then serve as representatives on their respective committees/boards and must file nomination forms with the Secretary.

The respective committees/boards have developed forms as a means for persons to file required information with the committees/boards relating to supplies, shipments, and dispositions of their respective commodities, and other information needed to effectively carry out the purpose of the AMAA and their respective orders, and these forms are utilized accordingly.

Formal rulemaking amendments to the orders must be approved in referenda conducted by the Secretary. Also, the Secretary may conduct a continuance referendum to determine industry support for continuation of these marketing order programs. Handlers are asked to sign an agreement to indicate their willingness to abide by the provisions of the respective orders whenever an order is amended.

This information collection will merge: OMB #0581–0094, Oranges, grapefruit, tangerines, and tangelos grown in Florida, Marketing Order No. 905; OMB #0581–0080, Fresh pears and peaches grown in California, Marketing Order No. 917; OMB #0581–0095, Apricots grown in designated counties in Washington, Marketing Order No. 922; OMB #0581–0089, Winter pears grown in Oregon and Washington, Marketing Order No. 927; OMB #0581–0103, Cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, Marketing Order No. 929; and OMB #0581–0092, Fresh Bartlett pears grown in Oregon and Washington, Marketing Order No. 931.

The forms covered under this information collection will continue to require the minimum information necessary to effectively carry out the requirements of the orders, and their use is necessary to fulfill the intent of the AMAA as expressed in the orders.

The information collected is used only by authorized employees of the committees and authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs' regional and headquarter's staff. Authorized committee employees are the primary users of the information and AMS is the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .40824 hours per response.

Respondents: Producers, handlers and processors.

Estimated Number of Respondents: 16,971.

Estimated Number of Responses per Respondent: 1.283.

Estimated Total Annual Burden on Respondents: 8,889 hours.

Comments: Comments are invited on: (1) Whether the proposed collection of the information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference this docket number and the appropriate marketing order, and be mailed to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090–6456; Fax (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours at 14th and Independence Ave., S.W., Washington, D.C., room 2525–S, or can be viewed at: http://www.ams.usda.gov/fv/moab.html.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: October 24, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–27787 Filed 10–27–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TM–00–10]

Notice of Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) announces a forthcoming meeting of the National Organic Standards Board (NOSB).

DATES: November 15, 2000, from 2:00 p.m. to 4.30 p.m.; November 16, 2000, 9:00 a.m. to 5:30 p.m.; and November 17, 2000, 8:30 a.m. to 3:00 p.m. (Eastern Daylight Time each day).

PLACE: The Department of Agriculture, Economic Research Service, 1800 M Street, NW, Waugh Auditorium, 3rd Floor Room, Washington, DC. Telephone: (202) 694–5103.

FOR FURTHER INFORMATION CONTACT: Keith Jones, Program Manager, National Organic Program, USDA–AMS–TMP–NOP, Room 2945–So., Ag Stop 0268, P.O. Box 96456, Washington, D.C. 20090–6456, Telephone: (202) 720–3252.

SUPPLEMENTARY INFORMATION: Section 2119 (7 U.S.C. 6518) of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. Section 6501 *et seq.*) requires the establishment of the NOSB. The purpose of the NOSB is to make recommendations about whether a substance should be allowed or prohibited in organic production or

handling, to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of OFPA. The NOSB met for the first time in Washington, D.C., in March 1992 and currently has five committees working on various aspects of the program. The committees are: Accreditation, Crops, Livestock, Materials, and Processing.

In August of 1994, the NOSB provided its initial recommendations for the National Organic Program (NOP) to the Secretary of Agriculture. Since that time the NOSB has submitted 30 addenda to its recommendations and reviewed more than 170 substances for inclusion on the National List of Allowed and Prohibited Substances. The last meeting of the NOSB was held on June 6–8, 2000, in Washington, DC.

The Department of Agriculture (USDA) published its re-proposed National Organic Program regulation in the **Federal Register** on March 13, 2000 (65 FR 13512). Comments were accepted until June 12, 2000. Forty thousand seven hundred and seventy four (40,774) comments were received during the comment period.

Purpose and Agenda

The principal purposes of this meeting are to provide an opportunity for the NOSB to: receive committee reports; receive an update from the Aquatic Task Force Working Group; receive an update from the USDA/NOP; and review materials for possible inclusion on, or removal from, the National List of Approved and Prohibited Substances. Materials to be reviewed at the meeting are periacetic acid, calcium borogluconate, animal enzymes, leather meal and sodium chlorate. For further information see http://www.ams.usda.gov/nop. Copies of the NOSB meeting agenda can be requested from Mrs. Toni Strother, USDA–AMS–TMP–NOP, Room 2510–So., Ag Stop 0268, P.O. Box 96456, Washington, D.C. 20090–6456; by phone at (202) 720–3252; or by accessing the NOP website at http://www.ams.usda.gov/nop.

Type of Meeting

This meeting is open to the public. The NOSB has scheduled time for public input on Wednesday, November 15, 2000, from 2:00 p.m. until 4:30 p.m. at the USDA Economic Research Service, 1800 M Street, NW, South Tower, Waugh Auditorium, 3rd Floor, Washington, D.C. 20036. Telephone: (202) 694–5103. Individuals and organizations wishing to make an oral presentation at the meeting should forward their request to Mrs. Toni Strother at the above address or by FAX to (202) 205–7808 by close of business November 13, 2000. While persons wishing to make a presentation may sign up at the door, advance registration will ensure an opportunity to speak during the allotted time period and will help the NOSB to better manage the meeting and accomplish its agenda. Individuals or organizations will be given approximately 5 minutes to present their views. All persons making an oral presentation are requested to provide their comments in writing, if possible. Written submissions may contain information other than presented at the oral presentation. Written comments may be submitted to the NOSB at the meeting or to Mrs. Strother after the meeting at the above address.

Dated: October 26, 2000.

James A. Caron,

Acting Deputy Administrator, Transportation and Marketing.

[FR Doc. 00–27896 Filed 10–27–00; 12:31 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Phase 1—Fuels Treatment for Community Protection Environmental Impact Statement, Six Rivers National Forest, Lower Trinity Ranger District, Humboldt County, California

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Six Rivers National Forest will prepare an Environmental Impact Statement (EIS) on a proposal to reduce fuels in high severity burned stands within strategically located fuel breaks and associated fuel treatment areas within the Waterman Ridge, Lone Pine Ridge and Mill Creek areas. Fuels reduction treatments are proposed on approximately 931 acres of merchantable and 187 acres of non-merchantable stands. Fuel reduction was identified as a need in the Forest-wide Late-Successional Reserve Assessment (April 1999) and further developed in the Horse Linto, Mill and Tish Tang Watershed Assessment (March 2000). It is the first phase of the Megram Fire Recovery Strategy designed to protect communities from wildlife and extended exposure to smoke and to restore affected watersheds. The entire project is in federal land ownership.

Treatment within merchantable stands involves the removal of fire and insect killed commercial wood material and treatment of the remaining fuels. Merchantable stands have the size, quality and condition suitable for market under current economic conditions. Treatment of remaining fuels would use a combination of methods including: Lop and scatter, masticating (chipping) of treatment units or strips along roads and skid trails, excavator piling, hand piling, burning of piles and concentration of fuels (jackpot burning), yarding unmerchantable material to landings and burning it, felling unmerchantable material and burning, and broadcast burning.

Non-merchantable stands would be treated to reduce fuels by cutting dead vegetation and hand piling and burning.

Planting of nursery stock would occur on understocked acres upon completion of fuel treatments. Stand tending treatments include release for conifer establishment and growth, conifer thinning and pruning.

DATES: Comments concerning the scope of this project should be received in writing by December 1, 2000.

ADDRESSES: Please send written comments to S.E. ''Lou'' Woltering, Forest Supervisor, Six Rivers National Forest, 1330 Bayshore Way, Eureka, California 95501.

FOR FURTHER INFORMATION CONTACT:

John Larson, Lower Trinity District Ranger, Six Rivers National Forest, (530) 625–2118; or

Dave Webb, EIS Team Leader, Six Rivers National Forest, P.O. Box 228, Gasquet, CA 95543, (707) 457–3131, extension 120.

SUPPLEMENTARY INFORMATION: During the summer and fall of 1999, the Megram Fire burned approximately 49,400 acres within the Horse Linto, Mill Creek and Tish Tang Creek (HLMTT) watersheds. Subsequent to the Fire, the HLMTT Watershed Assessment (WA) was completed in March 2000.

The Megram Recovery Strategy was prepared in June of 2000, which set priorities for implementation of the recommendations made in the WA. The Watershed Analysis emphasizes the need to restore watershed functions, protect remaining mature and old growth stands from catastrophic loss, accelerate development of late-successional habitat, reduce fuel levels in strategic locations and create stand conditions that would lower the potential for future catastrophic fire and, at the same time, provide for community protection from future wildfires and extended exposure to

smoke. It also points out that restoring natural fire regimes to the area is an ideal way of realizing these goals. Based on resource needs and public input, the Forest Strategic Leadership Team determined that watershed and soil restoration, along with providing for community protection for future wildfires, were the primary focus at this time.

The proposal is also consistent with the National Fire Plan that was developed from the report by the Secretaries of Agriculture and Interior to the President in response to the wildfires of 2000 (''Managing the Impact of Wildfires on Communities and the Environment'', September 8, 2000). This proposal is consistent with two of the five key points of the Plan: Reducing the risk of fire through hazardous fuels reduction and working directly with communities to ensure adequate protection. Successful implementation of the Plan will, in the long term, reduce the number of small fires that become large; restore natural ecological systems to minimize uncharacteristically intense fires; and reduce the threat to life and property from catastrophic wildfire. A key element in the Plan focuses on collaboration with communities, interest groups, State and Federal agencies and tribal governments.

The Megram Fire created extensive areas of dead and dying trees and shrubs dispersed across a landscape that already had high historic vegetation densities and high fuel loading. In addition, a tremendous number of snags were created and will continue to be created within the severely burned areas as trees are killed by insects and burn-related stress. This extensive snag component, in combination with the relatively high lightning occurrence in the area and a hazardous fuel situation, increases the probability of future lightning ignitions and potentially large stand-replacing wildfires. The extent and distribution of this fire hazard and risk present a substantial threat to local communities, both from wildfires and high levels of smoke. Fears and concerns of long-term public health issues are significant to the local communities, as is preventing a similar future fire from occurring. Wildlife protection of local communities and Tribal Trust responsibilities for the Hoopa Valley Indian Reservation are critical components of this proposal.

Active management would be instrumental in reducing this risk. One such management strategy, a system of fuel breaks with associated fuel treatment areas, was identified in the Forest-Wide Late-Successional Reserve Assessment and further developed within the HLMTT WA. Proposed activities within fuel breaks and associated fuel treatment areas include treatments necessary to modify areas with high concentrations of standing dead and down trees or brush to a more open fuel type. Fuel breaks and fuel treatment areas would be located strategically on ridges or natural land features, on the upper ⅓ of slopes or along a road. Most of the areas proposed for treatment are located on south and west facing slopes because these slopes are generally drier and would burn hotter than north and east facing slopes. In addition, the location of these areas is related to suppression capability and availability of resources.

Phase 1 would reduce fuels in both merchantable and non-merchantable stands in the Horse Linto and Mill Creek watersheds within the Waterman Ridge, Lone Pine Ridge and Mill Creek areas. Fuels reduction would only occur in those stands that have vegetation mortality of 60 percent or greater, that are not suitable survey and manage species habitat, and are located within the areas identified for community protection. There are other areas with mortality greater than 60 percent containing merchantable and non-merchantable stands that will not be treated because these areas do not provide for strategic community protection. Fuels reduction would not occur in the Tish Tang watershed, which is within the Orleans Mountain ''C'' Roadless Area.

Water quality parameters are important to the analysis area, which include temperature, sediment and turbidity. These parameters are the most critical water quality parameters for beneficial uses within the analysis area since they can be modified by land management activities. Future wildfires in these areas would tend to burn with high severity again, which would increase the likelihood of future accelerated surface erosion and possibly mass-wasting, delivering sediment to fish-bearing streams.

Treatment of merchantable stands would include the removal of fire and insect killed commercial wood material, treatment of remaining fuels, reforestation and stand tending. Stand tending treatments would include release for conifer establishment and growth, conifer thinning and pruning. Live trees would be retained, as well as sufficient numbers of large, dead trees within each stand to meet Forest standards and guidelines for snag retention. However, for units within fuel breaks, lower densities of snags would be left on ridge tops for firefighter safety and to facilitate fire suppression. Treatment of remaining fuels would use a combination of methods including: lop and scatter, masticating (chipping) of treatment units or strips along roads and skid trails, excavator piling, hand piling, burning of piles and concentration of fuels (jackpot burning), yarding unmerchantable material to landings and burning, felling unmerchantable material and burning, and broadcast burning. Reforestation would be accomplished through retention of pockets of natural regeneration and/or by hand planting of nursery stock. Stand tending would be long term and directed towards creating stands with non-continuous fuel ladders that are less conducive to high intensity crown fires.

Three merchantable stands (six acres) would be treated within Waterman Ridge. For all three, commercial material would be removed by tractor, with approximately 0.2 miles of temporary roads constructed to access one merchantable stand.

Twenty-eight merchantable stands (267 acres) would be treated within the Mill Creek area. Merchantable material would re removed by helicopter from 22 stands (228 acres) and by tractor from six stands (39 acres). Approximately 0.35 miles of existing roads and 0.45 miles of existing temporary roads would be reopened to access three stands.

Fifty-eight merchantable stands (658 acres) would be treated within the Lone Pine Ridge area. Merchantable material would be removed by helicopter from 17 stands (256 acres), by tractor from 28 stands (173 acres) and by cable from 13 stands (229 acres). Approximately 0.1 miles of new temporary road would be constructed to access one stand and approximately 1.05 miles of existing roads and 0.75 miles of existing temporary roads would be reopened to access seven stands.

One non-merchantable plantation (17 acres) would be treated within Waterman Ridge to reduce fuel loading. This plantation was heavily stocked with hardwoods before the Megram Fire. Fire-killed vegetation would be removed using commercial and/or personal use firewood permits. The temporary road used to access an adjoining merchantable stand would be extended approximately 0.1 mile along Waterman Ridge. Slash resulting from this treatment would be piled and burned. The stand would be reforested using nursery stock, with stand tending occurring over the long term.

Two non-merchantable stands would be treated within the Mill Creek Area to reduce fuel loading. In one stand, a plantation (45 acres) of fire-killed vegetation would be cut, live trees

would be pruned and cut vegetation would be hand piled and burned. A portion of this stand would need reforestation. In the other stand, a natural stand (56 acres), merchantable trees would be retained and non-merchantable trees and brush would be cut, hand piled and burned. Reforestation would be accomplished through retention of pockets of natural regeneration and by hand planting of nursery stock. Stand tending would occur over the long term.

Five non-merchantable stands (69 acres), all plantations, would be treated within the Lone Pine Ridge area to reduce fuel loading. In two plantations (16 acres), fire killed vegetation would be cut, live trees would be pruned and cut vegetation would be hand piled and burned. In three plantations (53 acres), dead trees would be felled, live trees would be thinned and pruned. In all five plantations, no reforestation would occur.

This proposal is Phase 1 in the overall strategy to protect communities from wildfires and extended exposure to smoke and to restore affected watersheds. Phase II would continue the work that is proposed in Phase I, by reducing fuels in unburned and moderately burned areas within the strategic fuelbreaks. Connecting the high severity and less severely burned fuel treatment areas would create a more continuous and effective fuelbreak. The unburned and moderately burned areas are suitable habitat for survey and manage species. Surveys for these species will be initiated during the fall of 2000 and spring of 2001. Results of these surveys would be utilized in the development of Phase II proposed actions, which would be analyzed under separate environmental analysis. The potential foreseeable future actions under Phase II would be considered in the cumulative effects analysis completed for Phase I.

Public participation will be an integral component of the analysis process and will be especially important at several points during the analysis. During the scoping process, the Forest Service will seek information, comments and assistance from Federal, State, County and local agencies, tribes, individuals and organizations that may be interested in or affected by the proposed activities. The scoping process will determine the scope of the issues to be addressed, determine the significant issues related to the proposed action, identify and eliminate other issues, assign tasks and determine disciplines, determine the existence of related environmental documents and identify schedules for analysis and decision making. Written scoping comments will be solicited through a scoping package that will be sent to the project mailing list and the local newspaper. Public open houses to present the proposed action and answer questions will be held from 7 PM to 9 PM, PST at the following locations:

- November 8, 2000 at the Trinity Valley Elementary School, Highway 96, Willow Creek, CA, 95513
- November 9, 2000 at Redwood Acres Turf Club, 3750 Harris Street, Eureka, CA 95501

For the Forest Service to best use the scoping input, comments should be received by December 1, 2000. The scoping package is available by contacting Dave Webb at the address or phone number listed above. Tentative issues that may be analyzed in the EIS include the potential effects to water quality and downstream cumulative watershed impacts to beneficial uses; to air quality; to threatened, endangered and sensitive wildlife, plant and fish species and associated habitat; and to soil productivity.

Based on the results of scoping and the resource conditions within the project area, alternatives (including a no-action alternative) will be developed for the draft EIS. The draft EIS is projected to be filed with the Environmental Protection Agency (EPA) in February 2001. The final EIS is anticipated in April 2001.

The comment period on the draft Environmental Impact Statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the designated comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final Environmental Impact Statement.

No Permits or special authorizations would be required. The Six Rivers National Forest is the lead agency for preparation of this document. There are no cooperating agencies on this project. Consultation will occur with local tribes, National Marine Fisheries Service and the U.S. Fish and Wildlife Service. S.E. ''Lou'' Woltering, Forest Supervisor, Six Ribers National Forest, is the responsible official. In making the decision, the Responsible Official will consider the comments; responses; disclosure of environmental consequences; and applicable laws, regulations and policies. The Responsible Official will state the rationale for the chosen alternative in the Record of Decision.

Dated: October 23, 2000.

S.E. ''Lou'' Woltering,

Forest Supervisor.

[FR Doc. 00–27728 Filed 10–27–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Virginia Field Office Technical Guide

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of Availability of proposed changes in the Virginia NRCS Field Office Technical Guide for review and comment.

SUMMARY: It has been determined by the NRCS State Conservationist for Virginia that changes must be made in the NRCS Field Office Technical Guide specifically in practice standards: #7021, Agrichemical Handling Facility; #314, Brush Management; #327, Conservation Cover; #328, Conservation Crop Rotation; #330, Contour Farming; #329B, Residue Management, Mulch Till; and #329C, Residue Management, Ridge Till to account for improved technology. These practices will be used to plan and install conservation

practices on cropland, pastureland, woodland, and wildlife land.

DATES: Comments will be received on or before November 29, 2000.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to M. Denise Doetzer, State Conservationist, Natural Resources Conservation Service (NRCS), 1606 Santa Rosa Road, Suite 209, Richmond, Virginia 23229–5014; Telephone number (804) 287–1665; Fax number (804) 287–1738. Copies of the practice standards will be made available upon written request to the address shown above or on the Virginia NRCS web site. *http://www.va.nrcs.gov/Data Tech Refs/Standards&Specs/EDITStds/EditStandards.htm.*

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS Field Office technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days, the NRCS in Virginia will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Virginia regarding disposition of those comments and a final determination of change will be made to the subject standards.

Dated: October 19, 2000.

M. Denise Doetzer,

State Conservationist, Natural Resources Conservation Service, Richmond, Virginia.

[FR Doc. 00–27558 Filed 10–27–00; 8:45 am]

BILLING CODE 3410–16–M

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

The United States Chemical Safety and Hazard Investigation Board announces that it will convene a Public Meeting beginning at 9:30 a.m. local time on November 8, 2000, at 2175 K Street, Second floor (Conference rooms of the Medical Society of the District of Columbia) Washington, DC.

Topics will include:

1. Presentation of recommendations for the CSB investigation into the March 4, 1998, incident at a Sonat Incorporated crude oil and natural gas production and separation facility near Pitkin, Louisiana.

2. Update on the recommendations resulting from the Board investigation into an incident at the Morton International, Inc. Plant in Paterson, New Jersey on April 8, 1998.

3. Update on the CSB investigation into the February 23, 1999, fire that occurred at the fractionator tower in the 50 crude oil processing unit at the Tosco ''Avon'' refinery in Martinez, California.

4. Update on review of open investigation files (Independent Fireworks, Sonat II, Equilon, Concept Sciences, and Condea Vista).

5. Update on the CSB Hiring Plan Initiative.

6. Board Initiatives with other Federal agencies;

7. Discussion of Board documents (Sonat Investigation Report, CSB five-year Strategic Plan, Memoranda of Understanding with the Agency for Toxic Substances and Disease Registry, and GAO Report—Coordination between various Federal Agencies).

8. CSB budget for FY 2001.

9. CSB Notation memorandums.

10. Update on Board Member activities.

11. Tentative date for next Board meeting.

The meeting will be open to the public. For more information, please contact the Chemical Safety and Hazard Investigation Board's Office of External Relations, (202) 261–7600, or visit our website at: *www.csb.gov*.

Christopher W. Warner,

General Counsel.

[FR Doc. 00–27847 Filed 10–25–00; 4:28 pm]

BILLING CODE 6350–01–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on November 15 & 16, 2000, 9 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Pennsylvania Avenue and Constitution Avenue NW., Washington, DC. The ISTAC advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

November 15

Public Session

1. Update on low-power microprocessors and industry trends

2. Discussion on Bureau of Export Administration initiatives

3. Committee planning for 2001

4. Comments or presentations from the public

November 15 & 16

Closed Session

5. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the ISTAC. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the ISTAC suggests that public presentation materials or comments be forwarded before the meeting to the address listed below: Ms. Lee Ann Carpenter, OSIES/EA/BXA MS: 3876, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 10, 1999, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of this Committee and of any Subcommittees thereof dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of this Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For more information or copies of the minutes call Lee Ann Carpenter, 202–484–2583.

Dated: October 24, 2000.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 00–27707 Filed 10–27–00; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part and Deferral of Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part and Deferral of Administrative Review.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with September anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke two antidumping duty orders in part and to defer the initiation of an administrative review for one antidumping duty order.

EFFECTIVE DATE: October 30, 2000.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2000), for administrative reviews of various antidumping and countervailing duty orders and findings with September anniversary dates. The Department also received timely requests to revoke in part the antidumping duty orders on Certain Corrosion-Resistant Carbon Steel Flat Products from Canada and Large Newspaper Printing Presses and Components Thereof from Japan. The request for revocation in part with respect to Certain Corrosion-Resistant Carbon Steel Flat Products from Canada was inadvertently omitted from the previous initiation notice (65 FR 58733, October 2, 2000). In addition, the Department received a request to defer for one year the initiation of the September 1, 1999 through August 31, 2000 administrative review of the antidumping duty order on Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled from Germany with respect to one exporter in accordance with 19 CFR 351.213(c). The Department received no objection to this request from any party cited in 19 CFR 351.213(c)(1)(ii).

Initiation of Reviews

In accordance with sections 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than September 30, 2001. Also, in accordance with 19 CFR 351.213(c), we are deferring for one year the initiation of the September 1, 1999 through August 31, 2000 administrative review of the antidumping duty order on Large Newspaper Printing Pressess and Components Thereof, Whether Assembled or Unassembled, from Germany with respect to one exporter.

	Period to be reviewed
Antidumping Duty Proceedings	
Germany: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, A–428–821	9/1/99–8/31/00
MAN Roland Druckmaschinen AG.	
Italy: Stainless Steel Sheet and Strip in Coils A–475–824	[1] 1/4/99–6/30/00
Acciai Speciali Terni S.p.A.	
Japan: Large Newspaper Printing Pressess and Components Thereof, Whether Assembled or Unassembled, A–588–837	9/1/99–8/31/00
Mitsubishi Heavy Industries, Ltd.	
Tokyo Kikai Seisakusho, Ltd.	
Taiwan: Stainless Steel Wire Rod, A–583–828	9/1/99–8/31/00
Walsin Lihwa Corporation.	
The People's Republic of China: Freshwater Crawfish Tail Meat,* A–570–848	9/1/99–8/31/00
Anhui Chaohu Daxin Meat Poultry Co., Ltd.	
Anhui Cereals, Oils & Foodstuffs.	
Anhui Provincial Aquatic Co.	
Baoluu Waterstuff Co., Ltd.	
Baoying Freezing Plant.	
Baoying County Freezing Plant.	
Beijing Farenco.	
China Kingdom Import & Export Co., Ltd., aka China Kingdoma Import & Export Co., Ltd., aka Zhongda Import & Export Co., Ltd.	
Ever Concord.	
Feidong Freezing Plant.	
Fubao Aquatic Foodstuff Co., Ltd.	
Fujian Hualong Aquatic Trade Development Co. Lianjian Seafood Processing Plant.	
Fujian Pelagic Fishery Group Co.	
Fujian Hualong Aquatic Trade Development.	
Funing County Frozen Food.	
Guangzhou Xinye Plastic Products.	
Hengji Trading Co., Ltd.	
Hexing Foodstuff Co., Ltd.	
Hongze County Laoshan Danxian Freeszing Factory.	
Hongze Lake Green Food Co., Ltd.	
Hongze County Aquatic Freezing Factory.	
Hua Yin.	
Huai Yin.	
Huaiyin County Freezing Factory.	
Huaiyin Foreign Economic Relations and Trade Committee.	

	Period to be reviewed
Huaiyin Foreign Trade Corp. Shunda Branch. Huaiyin Foreign Trade Corporation. Huaiyin Foreign Trade Corporation (1). Huaiyin Foreign Trade Corporation (3). Huaiyin Foreign Trade Corporation (5). Huaiyin Foreign Trade Corporation (30). Huaiyin Foreign Trading. Huaiyin Luky Trade Corp. Huaiyin Shunda Economic and Technology Trading Co. JAS Forwarding. Jiangsu Zhenfeng Group Foodstuff. Jiangsu Zhenfeng Group. Jiangsu Lukang Foodstuffs. Jin Hu Foreign Trading. Jinghu Aquatic Foodstuff Processing Plant. Jinpeng Agriculture and By-Product Development Co. Laoshan Brother Freezing Plant. Mr. Edward Lee. Lianyungang Haiwang Aquatic Products Co., Ltd. Liaoning Limeng Exports & Imports. Mr. Lin Zhong Nan. Mr. Ma Guo Zhong. Nantong Shengfa Frozen Food Co., Ltd. Nantong Delu Aquatic Food Co., Ltd. Neptune International. Ningbo Nanlian Frozen Foods Company, Ltd. Pacific Coast Fisheries Corp. Panwin Logistics. Qidong Baoluu Aquatic Food Co., Ltd. Qingdao Rirong Foodstuff Co., Ltd., aka Qingdao Rirong Foodstuffs. Qingdao Shun Hang Forwarding. Qingdao Zhengri Seafood Co., Ltd., aka Qingdao Zhengri Seafoods. Qingshan Foodstuff Co., Ltd. Rich Shipping. Seatrade International, aka Seatrade Enter. Shanghai Guangxun Trading. Shanghai Zhongjian International Trading. Shantou SEZ Yangfeng Marine Products Co. Suqian Foreign Trade Corp., aka Suqian Foreign Trading. Suyang Shuangyu Food Co., Ltd. Toyo Warehouse, aka TKK Toyo. Mr. Wei Wei, aka Philip Wei. Mr. Wei Zhang. Weishan Fukang Foodstuffs Co., Ltd. Weishan Jinmuan Foodstuff. Weishan Hongfa Lake Foodstuff Co., Ltd. aka Weishan Fongfa Lake Foodstuff. Y & Z International, aka Y & Z International Trading. Yancheng Baolong Biochemical Products Co., Ltd. Yancheng Foreign Trade Corp., aka. Yancheng Foreign Trading, aka Yang Chen Foreign Trading. Yancheng Fubao Aquatic Food Co., Ltd. Yancheng Haibao Foods. Yancheng Haiteng Aquatic Products & Foods Co., Ltd. Yancheng Yaou Seafoods. Mr. Yang Yi Xiang. Yangzhou Foreign Trading. Yangzhou Lakebest Foods Co., Ltd. Yiaxian No. 2 Freezing Processing Factory. Yundong Aquatic Products Processing Factory. Yundong Waterstuff Processing Plant. Zegao Daxin Foodstuff Freezing Plant. Zegao Foodstuff Freezing Plant. Mr. Zhang Wei. Zhenfeng Foodstuff Co. Zhenfeng Group Food Co. * If one of the above named companies does not qualify for a separate rate, all other exporters of freshwater crawfish tail meat from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.	
Countervailing Duty Proceedings	
Belgium: Stainless Steel Plate in Coils, C–423–809 ALZ, N.V.[2].	9/4/98–12/31/99

	Period to be reviewed
Suspension Agreements	
None.	
Deferral of Initiation of Administrative Review	
Germany: Large Newspaper Printing Pressess and Components Thereof, Whether Assembled or Unassembled, A–428–821 Koenig & Bauer-Albert AG.	9/1/99–8/31/00

[1] In the initiation notice published on October 2, 2000, (65 FR 58733), the review period for Acciai was incorrect. The period listed above is the correct period of review for that firm.

[2] In the initiation notice published on July 7, 2000, (65 FR 41942), the review period for this case was incorrect. The period of review was corrected in the initiation notice published on October 2, 2000, (65 FR 58733); however, in that notice the company name was incorrectly reported as ''Acciai Speciali Terni S.p.A.'' The correct company name is ''ALZ, N.V.''

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: October 24, 2000.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II for Import Administration.

[FR Doc. 00–27815 Filed 10–27–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Final Results of Third New Shipper Review and Final Results and Partial Rescission of Second Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of third new shipper review and final results and partial rescission of second antidumping duty administrative review.

SUMMARY: On December 29, 1999, the Department of Commerce published the preliminary results of the third new shipper review and the preliminary results and partial rescission of the second antidumping duty administrative review of the antidumping duty order on brake rotors from the People's Republic of China. *See Preliminary Results of Third New Shipper Review and Preliminary Results and Partial Rescission of Second Antidumping Duty Administrative Review: Brake Rotors from the People's Republic of China,* 64 FR 73007 (December 29, 1999) (*Preliminary Results*). The products covered by this order are brake rotors from the People's Republic of China. These reviews cover nine exporters (*see* ''Background'' section below for further discussion). The period of review is April 1, 1998, through March 31, 1999.

Based on the additional publicly available information used in these final results and the comments received from the interested parties, we have made changes in the margin calculations for all nine exporters. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of Reviews.''

EFFECTIVE DATE: October 30, 2000.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Terre Keaton, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–1280.

SUPPLEMENTARY INFORMATION:

The 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 (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations are to 19 CFR Part 351 (2000).

Background

These reviews cover the following nine exporters: (1) Jilin Provincial Machinery & Equipment Import & Export Corporation (''Jilin''); (2) Laizhou Auto Brake Equipments Factory (''LABEF''); (3) Laizhou Hongda Auto Replacement Parts Co., Ltd. (''Laizhou Hongda''); (4) Longkou Haimeng Machinery Co. (''Haimeng''); (5) Qingdao (Gren) Co. (''GREN''); (6) Yantai Import & Export Corporation (''Yantai''); (7) Yantai Winhere Auto-Part Manufacturing Co. (''Winhere''); (8) Yenhere Corporation (''Yenhere''); and (9) Zibo Botai Machinery Manufacturing Co. (''Zibo''). The period of review (POR) is April 1, 1998, through March 31, 1999.

On December 29, 1999, the Department published in the **Federal Register** the preliminary results of the third new shipper review and preliminary results and partial rescission of second antidumping duty administrative review of the antidumping duty order on brake rotors from the People's Republic of China (''PRC'') (64 FR 73007). On March 10, 2000, the respondents and the petitioner submitted publicly available information (''PAI'') at the Department's request. The interested parties submitted their case briefs on March 24, 2000. Only the petitioner submitted a rebuttal brief on March 29, 2000. On March 29, 2000, the Department notified the petitioner and respondents that it intended to conduct verification of the responses submitted by Jilin, Laizhou Hongda, Winhere, and Yenhere. Therefore, in order to accomodate these verifications, the Department published in the **Federal Register** a notice which postponed the final results in these reviews until October 24, 2000. *See*

Postponement of Final Results of Antidumping Duty Administrative Review: Brake Rotors from the People's Republic of China, 65 FR 19359 (April 11, 2000). In June 2000, we conducted verification of the responses submitted by the above-mentioned four respondents. In July 2000, we placed additional PAI on the record and provided the parties with the opportunity to comment. In July and August 2000, we issued the verification reports.

As a result of our decision to conduct verification of the responses submitted by certain companies and postpone the final results, we provided the interested parties with another opportunity to submit PAI. The petitioner submitted PAI on August 15, 2000. On August 20, 2000, we requested that the petitioner provide additional import values for six material inputs for the time period August–December 1998 from the Indian government publication *Monthly Statistics of the Foreign Trade of India* (''*Monthly Statistics*''). On August 23, 2000, we provided the respondents with the same opportunity. On August 25, 2000, the respondents submitted PAI from *Monthly Statistics* for the six inputs at issue, but the time period of the data differed from our request. On September 1, 2000, we returned the PAI submitted by the respondents on August 25, 2000. The petitioner submitted its case brief on September 5, 2000. The respondents submitted their rebuttal brief on September 13, 2000.

On October 2, 2000, we placed on the record additional PAI for electricity and marine insurance for consideration in the final results and provided the parties with an opportunity for comment. Neither party submitted comments on this additional information.

The Department has conducted these reviews in accordance with section 751 of the Act.

Scope of Reviews

The products covered by these reviews are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: Automobiles, all-terrain vehicles, vans and recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') which produces vehicles sold in the United States (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in these reviews are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of these reviews are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are classifiable under subheading 8708.39.5010 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of these reviews is dispositive.

Rescission

We have rescinded the administrative review with respect to Longjing Walking Tractor Works Foreign Trade Import & Export Corporation (''Longjing''), Zibo Luzhou Automobile Parts Co. (''ZLAP''), and Yantai Chen Fu Machinery Co., Ltd. (''Chen Fu'') because they withdrew their requests for review and no other interested party requested a review of these companies. *See Preliminary Results*, 64 FR at 73009.

Analysis of Comments Received

All issues raised in the case briefs are addressed in the ''Issues and Decision Memorandum'' (''Decision Memo'') from Richard W. Moreland, Deputy Assistant Secretary for Import Administration, to Troy Cribb, Assistant Secretary for Import Administration, dated October 24, 2000, which is hereby adopted by this notice. A list of the issues raised, all of which are in the Decision Memo, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in the briefs and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the Decision Memo can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on the use of additional PAI and the comments received from the interested parties, we have made changes in the margin calculations for all nine exporters. For a discussion of these changes, see the ''Margin Calculations'' section of the Decision Memo.

Final Results of Reviews

We determine that the following weighted-average margin percentages exist for the period April 1, 1998, through March 31, 1999:

Exporter	Margin (percent)
Jilin Provincial Machinery & Equipment Import & Export Corp	0.00
Laizhou Auto Brake Equipments Factory	0.00
Laizhou Hongda Auto Replacement Parts Co., Ltd	0.00
Longkou Haimeng Machinery Co	[1] 0.10
Qingdao (Gren) Co	0.69
Yantai Import & Export Corp	[1] 0.06
Yantai Winhere Auto-Part Manufacturing Co	0.00
Yenhere Corp	0.00
Zibo Botai Machinery Manufacturing Co	0.00

[1] *De minimis.*

Assessment Rates

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries of subject merchandise during the POR from the PRC exporters for which the import-specific assessment rate is zero or *de minimis* (*i.e.*, less than 0.50 percent). In accordance with 19 CFR 351.212(b), we have calculated importer-specific ad valorem duty assessment rates. We will direct Customs to assess the resulting percentage margin against the entered Customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period. For entries from the PRC non-market economy (''NME'') entity companies (*i.e.,* PRC exporters which are not entitled separate rates), the Customs Service shall assess ad

valorem duties at the PRC-wide rate. Because the PRC-wide entity was not reviewed during this POR, the PRC-wide rate remains that established in the less-than-fair-value investigation. For entries made by PRC companies for which the Department has rescinded the administrative review (*i.e.,* Chen Fu, Longjing and ZLAP), Customs shall assess ad valorem duties at the rates applicable at the time of entry.

Cash Deposit Requirements

The following deposit rates shall be required for merchandise subject to the order entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative and new shipper reviews, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for each reviewed company will be the rate indicated above; (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding but for whom the Department has rescinded the review (*i.e.,* Longjing and ZLAP) or of whom the review was not requested for this POR will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME entity (*i.e.,* all other exporters, including Chen Fu, which have not been reviewed) will continue to be 43.32 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: October 24, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memo

Comments

1. Data from Another Segment of the Proceeding
2. Request for Verification
3. Applying the Separate Rates Test to Laizhou Hongda
4. Treatment of Laizhou Hongda's U.S. Sales
5. Factor Allocation Methodology Used by Respondents Which Also Produce Non-Subject Merchandise
6. Considering the Use of Submitted Surrogate Values
7. Surrogate Value Selection for Plastic Bags
8. Calculation of the Surrogate Profit Ratio
9. Surrogate Value Selection for Firewood
10. Surrogate Value Selection for Labor
11. Surrogate Value Selection for Foreign Inland Freight

[FR Doc. 00–27813 Filed 10–27–00; 8:45 am]

BILLING CODE 3510–DS–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Notice of Extension of Time Limit for Preliminary Results of New-Shipper Antidumping Review: Freshwater Crawfish Tail Meat From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 30, 2000.

FOR FURTHER INFORMATION CONTACT: Christian Hughes or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482–4106 and (202) 482–3020, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are 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, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1999).

Background

On June 1, 2000, the Department published a notice of initiation of new shipper administrative reviews of the antidumping duty order on Freshwater Crawfish Tail Meat from the People's Republic of China, covering the period September 1, 1999 through February 29, 2000 (65 FR 35046). The preliminary results are currently due no later than November 21, 2000.

Extension of Time Limit for Preliminary Results

Because of the complexities enumerated in the Memorandum from Barbara E. Tillman to Joseph A. Spetrini, Extension of Time Limit for the Preliminary Results of New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China, dated October 24, 2000, we find this case is extraordinarily complicated and thus are unable to complete this review by the scheduled deadline. Therefore, in accordance with section 351.214(i)(2) of the Department's regulations, the Department is extending the time period for issuing the preliminary results of review by 120 days (*i.e.,* until March 21, 2001).

Dated: October 24, 2000.

Edward C. Yang,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 00–27811 Filed 10–27–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–810]

Mechanical Transfer Presses From Japan: Extension of Time Limit for Preliminary Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of administrative review.

EFFECTIVE DATE: October 30, 2000.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202)482–0666.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to

the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR part 351 (1999).

Background

On February 29, 2000, the Department of Commerce (the Department) received a request from Komatsu, Ltd. (Komatsu) for an administrative review of the antidumping duty order on mechanical transfer presses from Japan. On March 30, 2000, the Department published a notice of initiation of this administrative review covering the period of February 1, 1999 through January 31, 2000 (65 FR 16875).

Extension of Time Limits for Preliminary Results

Because of the complexities enumerated in the *Memorandum from Barbara E. Tillman to Joseph A. Spetrini, Extension of Time Limit for the Administrative Review of Mechanical Transfer Presses from Japan*, dated October 24, 2000, it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act.

Therefore, in accordance with section 751(a)(3)(A), the Department is extending the time limits for the preliminary results to February 28, 2001. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: October 24, 2000.

Edward C. Yang,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 00–27814 Filed 10–27–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–817]

Oil Country Tubular Goods (''OCTG'') From Mexico; Preliminary Results of Sunset Review of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Full Sunset Review: Oil Country Tubular Goods (''OCTG'') from Mexico.

SUMMARY: On July 3, 2000, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on oil country tubular goods (''OCTG'') from Mexico (65 FR 41053) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of substantive responses filed by domestic and respondent interested parties, the Department determined to conduct a full review. As a result of this review, the Department preliminarily finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the levels indicated in the *Preliminary Results of Review* section of this notice.

EFFECTIVE DATE: October 30, 2000.

FOR FURTHER INFORMATION CONTACT: John P. Maloney, Jr. or James P. Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1503 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Statute and Regulations

Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department regulations are to 19 CFR Part 351 (2000). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Background

On July 3, 2000, the Department initiated a sunset review of the antidumping duty order on OCTG from Mexico (65 FR 41053), pursuant to section 751(c) of the Act. The Department received a notice of intent to participate on behalf of U.S. Steel Group, a unit of USX Corporation, North Star Steel Ohio, IPSCO Tubulars, Inc., Lone Star Steel Company, Maverick Tube Corporation, Newport Steel and Koppel Steel Divisions of NS Group, and Grant-Prideco (''domestic interested parties''), within the applicable deadline (July 18, 2000) specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. On August 2, 2000, respondent interested parties Tubos de Acero de Mexico, S.A. (''TAMSA'') and Hylsa, S.A. de C.V. (''Hylsa'') notified the Department of their intent to participate in this review. Domestic interested parties claimed interested-party status under section 771(9)(C) of the Act, as the U.S. producers of a domestic like product; TAMSA and Hylsa are interested parties pursuant to section 771(9)(A) of the Act as foreign producers and exporters of subject merchandise.

On August 2, 2000, we received complete substantive responses from domestic interested parties, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). On August 2, 2000, we received complete substantive responses from TAMSA and Hylsa. The Department received rebuttal comments from domestic interested parties on August 7, 2000. On August 22, 2000, pursuant to 19 CFR 351.218 (e)(2), the Department determined to conduct a full (240-day) sunset review of this order.[1]

Scope of Review

Imports covered by this review are oil country tubular goods, hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this review are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.21.30.00, 7403.21.60.00, 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60,

[1] *See* August 22, 2000, Memoranda for Jeffrey A. May, Re: Oil Country Tubular Goods (''OCTG'') from Mexico; Adequacy of Respondent Interested Parties' Response to the Notice of Initiation.

7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive. The Department has determined that couplings, and coupling stock, are not within the scope of the antidumping order on OCTG from Mexico. *See* Letter to Interested Parties; Final Affirmative Scope Decision, August 27, 1998.

Analysis of Comments Received

All issues raised in the substantive responses and rebuttal briefs by parties to this sunset review are addressed in the ''Issues and Decision Memorandum'' (''Decision Memo'') from Jeffrey A. May, Director, Office of Policy, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated October 23, 2000, which is hereby adopted and incorporated by reference into this notice. The issues discussed in the attached Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail were the order revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099, of the main Commerce building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at www.ita.doc.gov. The paper copy and electronic version of the Decision Memo are identical in content.

Preliminary Results of Review

We preliminarily determine that revocation of the antidumping duty order on OCTG from Mexico would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturers/exporters	Margin (percent)
TAMSA	21.70
Hylsa	21.70
All Others	21.70

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held on December 18, 2000, in accordance with 19 CFR 351.310(d). Interested parties may submit case briefs no later than December 11, 2000, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than December 15, 2000. The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such briefs, no later than February 28, 2001.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 23, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–27810 Filed 10–27–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–817]

Oil Country Tubular Goods From Italy; Preliminary Results of Sunset Review of Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of full Sunset Review: oil country tubular goods from Italy.

SUMMARY: On July 3, 2000, the Department of Commerce (''the Department'') initiated a sunset review of the countervailing duty order on oil country tubular goods (''OCTG'') from Italy (65 FR 41053) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of substantive responses filed by domestic and respondent interested parties, the Department determined to conduct a full review. As a result of this review, the Department preliminarily finds that revocation of the countervailing duty order would likely lead to continuation or recurrence of subsidies at the levels indicated in the *Preliminary Results of Review* section of this notice.

EFFECTIVE DATE: October 30, 2000.

FOR FURTHER INFORMATION CONTACT: John P. Maloney, Jr. or James Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1503 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Statute and Regulations

This review is being conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*'') and in 19 CFR part 351 (2000) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Background

On July 3, 2000, the Department initiated a sunset review of the countervailing duty order on oil country tubular goods from Italy (65 FR 41053), pursuant to section 751(c) of the Tariff Act of 1930, as amended, (''the Act''). The Department received a notice of intent to participate on behalf of U.S. Steel Group, a unit of USX Corporation, IPSCO Tubulars, Inc., Lone Star Steel Company, Maverick Tube Corporation, Newport Steel and Koppel Steel Divisions of NS Group, Grant-Prideco, and North Star Steel Ohio (collectively, ''domestic interested parties''), within the applicable deadline (July 18, 2000) specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. Domestic interested parties claimed interested-party status under section 771(9)(C) of the Act, as U.S. manufacturers of the domestic like product. U.S. Steel Group, IPSCO Steel, Inc., Maverick Tube Corporation, Koppel Steel Corporation, and North Star Steel Ohio were petitioners in the investigation and have been involved in this proceeding since its inception.

On August 1, 2000, we received a response from the European Union Delegation of the European Commission (''EC'') expressing its willingness to participate in this review as the authority responsible for defending the interest of the Member States of the European Union (''EU'') (*see* August 1, 2000, Response of the EC at 3). On August 1, 2000, we received a response from the Government of Italy (''GOI'') expressing its willingness to participate in this review as the authority

responsible for defending the interests of the Italian steel industry. The GOI and EC note that they have in the past participated in this proceeding (*see* August 1, 2000, Response of the EC at 3, and the August 1, 2000, Response of the GOI at 2).

On August 2, 2000, we received complete substantive responses from domestic interested parties, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i), and a complete substantive response from Dalmine S.p.A. (''Dalmine''), a foreign producer and exporter of the subject merchandise, and a respondent interested party under section 771(9)(A) of the Act.

We received rebuttal comments from domestic interested parties and Dalmine, on August 7, 2000. Pursuant to 19 CFR 351.218 (e)(2)(i), the Department determined to conduct a full (240-day) sunset review of this order.[1]

Scope of Review

The merchandise covered by this review is OCTG, hollow steel products of circular cross-section, including only oil well casing and tubing pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium, or drill pipe. The OCTG subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

All issues raised in the substantive responses and rebuttals by parties to this sunset review are addressed in the ''Issues and Decision Memorandum'' (''Decision Memo'') from Jeffrey A. May, Director, Office of Policy, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated October 23, 2000, which is hereby adopted by this notice. The issues discussed in the attached Decision Memo include the likelihood of continuation or recurrence of countervailable subsidies and the net subsidy likely to prevail were the order revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099, of the main Commerce building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at www.ia.ita.doc.gov/frn, under the heading ''Italy.'' The paper copy and electronic version of the Decision Memo are identical in content.

Preliminary Results of Review

We preliminarily determine that revocation of the countervailing duty order on oil country tubular goods from Italy would be likely to lead to continuation or recurrence of countervailable subsidies at the rate listed below:

Producers/exporters	Net countervailable subsidy (percent)
All Producers/exporters from Italy	1.47

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held on December 18, 2000, in accordance with 19 CFR 351.310(d). Interested parties may submit case briefs no later than December 11, 2000, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than December 15, 2000. The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such briefs, no later than February 28, 2001.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 23, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–27809 Filed 10–27–00; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See* August 22, 2000, Memorandum for Jeffrey A. May, Re: Oil Country Tubular Goods from Italy; Adequacy of Respondent Interested Parties' Response to the Notice of Initiation.

DEPARTMENT OF COMMERCE

International Trade Administration

Closed Meeting of the U.S. Automotive Parts Advisory Committee (APAC)

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The APAC will have a closed meeting on November 13, 2000, at the U.S. Department of Commerce to discuss U.S.-made automotive parts sales in Japanese and other Asian markets.

DATES: November 13, 2000.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, U.S. Department of Commerce, Room 4036, Washington, DC 20230, telephone: 202–482–1418.

SUPPLEMENTARY INFORMATION: The U.S. Automotive Parts Advisory Committee (the ''Committee'') advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Automotive Parts Act of 1998 (Public Law 105–261).

The Committee: (1) Reports to the Secretary of Commerce on barriers to sales of U.S.-made automotive parts and accessories in Japanese and other Asian markets; (2) reviews and considers data collected on sales of U.S.-made auto parts and accessories in Japanese and other Asian markets; (3) advises the Secretary of Commerce during consultations with other Governments on issues concerning sales of U.S.-made automotive parts in Japanese and other Asian markets; (4) assists in establishing priorities for the initiative to increase sales of U.S.-made auto parts and accessories to Japanese markets, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and (5) assists the Secretary of Commerce in reporting to Congress by submitting an annual written report to

the Secretary on the sale of U.S.-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to its authorizing legislation.

At the meeting, committee members will discuss specific trade and sales expansion programs related to automotive parts trade policy between the United States and Japan and other Asian markets.

The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on October 23, 2000, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the November 13 meeting of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b(c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: October 25, 2000.

Robert O. Reck,

Acting Director, Office of Automotive Affairs.

[FR Doc. 00–27806 Filed 10–27–00; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050500F]

Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations; Issuance of Permit

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

ACTION: Notice of issuance of permit.

SUMMARY: NMFS hereby issues a permit for a period of 3 years, to authorize the incidental, but not intentional, taking of four stocks of threatened or endangered marine mammals by the California/Oregon (CA/OR) drift gillnet fishery. The four stocks are: fin whale, California/Oregon/Washington stock; humpback whale, California/Oregon/Washington-Mexico stock; Steller sea lion, eastern stock; and sperm whale, California/Oregon/Washington stock. This authorization is based on a determination that this incidental take will have a negligible impact on the affected marine mammal stocks.

DATES: This permit is was issued on October 24, 2000, and is effective through October 24, 2003.

ADDRESSES: Copies of the reference materials and Environmental Assessment (EA) may be obtained from Protected Resources Division, National Marine Fisheries Service, Southwest Region, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Attention: Tim Price.

FOR FURTHER INFORMATION CONTACT: Tim Price, NMFS, Southwest Region, Protected Resources Division, (562) 980-4029.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(E) of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1371(a)(5)(E)) requires the authorization of the incidental taking of individuals from marine mammal stocks listed as threatened or endangered under the Endangered Species Act (ESA) in the course of commercial fishing operations if NMFS determines that (1) the incidental mortality and serious injury will have a negligible impact on the affected species or stock; (2) a recovery plan has been developed or is being developed for such species or stock under the ESA; and (3) where required under section 118 of the MMPA, a monitoring program has been established, vessels engaged in such fisheries are registered in accordance with section 118 of the MMPA, and a take reduction plan has been developed or is being developed for such species or stock.

On June 6, 2000 (65 FR 35904), NMFS proposed the issuance of a permit, for a period of 3 years, to authorize the incidental, but not intentional, taking of four stocks of threatened or endangered marine mammals by the CA/OR drift gillnet fishery under section 101(a)(5)(E) of the MMPA.

Four letters of comment were received concerning the proposal for issuance of a permit. All of these letters were in opposition to the issuance of a permit.

Comment 1: Two commenters requested that the comment period be extended to provide additional time to prepare a detailed response.

Response: NMFS believes that a 45-day comment period was sufficient time for public comment and is consistent with the process established at 50 CFR 229.20 for issuance of a permit to authorize the incidental take of threatened or endangered marine mammals species under section 101(a)(5)(E) of the MMPA.

Comment 2: One commenter felt that a permit should not be issued if the permit would allow the incidental taking of threatened or endangered species under the ESA.

Response: Under section 101(a)(5)(E) of the MMPA, the Secretary of Commerce (Secretary) must allow the incidental, but not intentional, taking of marine mammals from a species or stock designated as depleted because of its listing as an endangered or threatened species under the ESA if the Secretary determines that the incidental mortality and serious injury from commercial fisheries will have a negligible impact on such species or stock, that a recovery plan has been developed or is being developed, and that the provisions of section 118 are being met. The Secretary cannot refuse to issue a permit under section 101(a)(5)(E) if the conditions set forth in the MMPA have been met.

Comment 3: One commenter stated that NMFS should not issue a 101(a)(5)(E) permit to the CA/OR drift gillnet fishery because there is incidental take of sperm whales, marlin, skipjack tuna, and blue sharks.

Response: The potential biological removal (PBR) level for the California/Oregon/Washington sperm whale stock is 2.0 whales per year. The CA/OR drift gillnet fishery is the only fishery likely to incidentally take a sperm whale from this stock. Using a 3-year average (1997-1999), the mean annual mortality and serious injury rate from the CA/OR drift gillnet fishery is estimated to be 1.7 sperm whales. In 1998, one sperm whale was observed killed in a net that was not in compliance with the Pacific Offshore Cetacean Take Reduction Plan (Plan) developed for the CA/OR drift gillnet fishery. The Pacific Offshore Cetacean Take Reduction Team (Team) recommended no further strategies to reduce sperm whale entanglements be implemented until the effectiveness of pingers is better understood. The estimated annual mortality using a 3-year average is less than PBR and would cause no more than a 10-percent increase in the time needed to achieve recovery. NMFS has determined that an activity that slows the rate of recovery of depleted marine mammals to pre-exploitation levels by no more than 10-percent delay is considered a ''negligible impact'' for purposes of issuing a permit under section 101(a)(5)(E) of the MMPA. The incidental taking of marlin, skipjack tunas, and blue shark is not relevant to the determination about issuing a permit under section 101(a)(5)(E) of the

MMPA, which addresses only marine mammals listed under the ESA.

Comment 4: One commenter indicated that NMFS is abandoning its current formula for determining the ''negligible impact'' threshold in favor of a calculation that substantially decreases protection and increases risks for listed species.

Response: The new approach for determining negligible impact is consistent with the guidelines prepared by the Marine Mammal Commission (Commission), and submitted to NMFS in 1990 to be used in its development of a regime to govern the mortality and serious injury of marine mammals incidental to commercial fishing operations. In the guidelines, the Commission stated that a negligible impact would cause no more than a 10-percent delay in a severely depleted stock's recovery. This commenter correctly notes that the criterion the determination used as an initial estimate of the negligible impact threshold is different than that used in 1995 when permits under MMPA section 101(a)(5)(E) were issued for the first time. While this new approach may be slightly less conservative than the approach used in 1995, the approach does not significantly affect the recovery rate of the stock.

Comment 5: By allowing fisheries related mortality up to 100 percent of the PBR level, the proposal essentially renders the margin of safety created by the recovery factor meaningless and, thereby, reduces protection for listed species.

Response: The approach used in this negligible impact determination could authorize the mortality and serious injury to equal the PBR level of some stocks of marine mammals (i.e., those stocks with a recovery factor of 0.1 in the PBR equation) and does reduce protection as compared to the extremely conservative approach previously used. The protection, although reduced from the former approach (10 percent of PBR), is appropriate for the stocks involved and is consistent with the Commission's recommendation to NMFS for a quantitative estimate for negligible impact. The legislative proposal that NMFS submitted to Congress in 1992 adopted the Commission's recommendation of 10 percent delay in recovery in a statement that 90 percent of an endangered marine mammal stock's annual production should be reserved for recovery and that only 10 percent should be authorized for removal incidental to human activity. Intensive simulation modeling of marine mammal populations showed no more than a 10-percent delay in recovery would result when human-caused mortality was below a threshold defined by one-tenth of the product of the stock's minimum population estimate (Nmin) and one-half of its maximum net productivity rate (1/2 Rmax) (i.e., 0.1 * Nmin * 1/2 Rmax). Such a threshold is the equivalent of a stock's PBR when calculated with a recovery factor of 0.1. When applying the former criterion (10 percent of PBR) to a stock with a recovery factor of 0.1 in the PBR equation, the result could be an order of magnitude more restrictive than is necessary to achieve the stated goal of negligible impact. As in the determinations for the 1995 permit, NMFS uses this threshold as a starting point in the determination, rather than a mechanical application of a general formula, to ensure that the incidental mortality and serious injury would cause no more than a negligible impact.

Comment 6: One commenter suggested that it was inappropriate and scientifically unsound to issue permits for increased takings of federally listed marine mammal species based on such a small sample size and limited amount of monitoring data (low observer coverage) obtained since implementation of the Plan.

Response: NMFS disagrees. The issuance of a permit to allow for the taking of marine mammal species listed under the ESA does not authorize an increase in taking. The issuance of a permit authorizes the fishery to lawfully take species listed under the ESA provided the incidental taking is negligible. Observer coverage for 1997 (the effective date of the Plan was October 30, 1997), 1998, and 1999, has averaged 20 percent. Twenty-percent observer coverage is considered adequate for estimating protected species interactions in the CA/OR drift gillnet fishery. During this time, there was only one sperm whale observed taken, and this take was in a net that was not equipped with ''pingers'' (acoustic deterrent devices) and thus was not deployed in compliance with the Plan. More importantly, overall cetacean mortality has decreased for sets in which pingers are used.

Comment 7: One commenter indicated that a permit should not be issued because the sperm whale takes from the Mexican drift gillnet fishery were not considered.

Response: NMFS disagrees. The CA/OR drift gillnet fishery takes sperm whales from the California/Oregon/Washington stock. For management purposes, this stock does not include animals of the Mexican sperm whale population. Although large populations of sperm whales exist in waters south of the California/Oregon/Washington region, there is no evidence of sperm whale movements into this region. Moreover, NMFS understands that Mexican fishermen have converted their drift gillnet fleet along Baja California to longline vessels.

Comment 8: One commenter noted that the 1999 Stock Assessment Report (SAR) for sperm whales calculated an incidental mortality by the fishery of 4.6 animals per year, using a 5-year average, and the draft 2000 SAR calculated a mean annual take of 2.5 whales, using 1997 and 1998 data, which is greater than the calculated PBR level. The commenter also stated that the use of only 2 years of data is problematic, given the small sample size and the low level of observer coverage.

Response: NMFS disagrees. To more accurately reflect entanglement rates after the implementation of the Plan (minimum 6-fathom extenders, skipper education workshops, and the use of pingers), the Scientific Review Group (SRG), which consists of independent (non-Federal) individuals with expertise in population dynamics and modeling, recommended that mortality averaging should use data from 1997 (the year the Plan was implemented) and beyond (up to 5 years). The data presented in the 1999 SARs were collected before the Plan was implemented. Therefore, for all marine mammal species incidentally taken in the fishery, mean annual mortality estimates in the SARs will use data collected since the implementation of the Plan. At the time that the draft 2000 SARs were prepared, NMFS had only 2 years of observer data available to estimate mean annual mortality subsequent to the implementation of the Plan. By including the 1999 observer data to calculate the mean annual mortality for the fishery, NMFS is using the best scientific information available to estimate mortality under the Plan. NMFS agrees that 5 years of data collected under the Plan will provide a greater precision for the mortality estimate. In addition, NMFS believes that a 20-percent observer coverage is sufficient to provide an appropriate level of accuracy for calculating overall mortality estimates.

Comment 9: One commenter indicated that, because the use of pingers is one of the primary measures for reducing take under the Plan, NMFS should include the observed sperm whale that was entangled in 1996, before the implementation of the Plan, because pingers were attached to the net during the set.

Response: NMFS disagrees. Although the sperm whale was taken in a set in which pingers were attached, the pinger

configuration did not comply with the Plan. Under the Plan, a net 1,000 fathoms long is required to have 41 pingers attached alternating between the floatline and the leadline, spaced 300 feet (50 fathoms) apart. The sperm whale observed taken in 1996 was in a set in which the net had only 33 pingers attached. Moreover, the SRG recommended that using 1997 and 1998 data would be most appropriate because the data would most accurately reflect entanglement rates after the changes in the fishery imposed by the Plan, even though the data are inconclusive about whether pingers affect sperm whale entanglement rates. The group agreed the same 2-year mortality averaging should be applied consistently in estimating mean annual mortality for all species incidentally taken in the CA/OR drift gillnet fishery when preparing the 2000 Marine Mammal SAR.

Comment 10: One commenter felt that because calendar year 1996 had 12.4-percent observer coverage, the estimated incidental take of sperm whales in 1996 should be 8. Using this assumption, the commenter calculated the mean annual take level for calendar years 1997, 1998, and 1999, to be 3.25, which is greater than the PBR level of two animals per year in the 2000 draft U.S. Pacific Marine Mammal SAR.

Response: NMFS disagrees. During the last 5 months (August through December) of 1996, NMFS's observer program conducted a pinger experiment. As part of the experiment, sets were randomly selected to have pingers attached to the floatline and leadline of the net. Because only vessels that carried an observer participated in the experiment, mortality estimation for the fleet was based on the number of observed sets that did not have pingers attached to the net. The number of observed sets without pingers attached to the net used for estimation was 275, which represents overall fleet observer coverage of 8.5 percent. Mortality observed for sets using pingers was treated as a constant and added to estimates of mortality for sets not using pingers. Estimates were determined in this way because preliminary results indicated use of pingers may decrease cetacean entanglement. If a species was taken in sets deployed with pingers, but not in sets without pingers, the resultant mortality was a constant without an associated standard error such as the single sperm whale entanglement. For this reason, the sperm whale estimated mortality in 1996 was one, rather than eight, as suggested by the commenter.

Comment 11: One commenter questioned whether a permit could be issued under section 101(a)(5)(E) of the MMPA because there is insufficient evidence to support NMFS' determination that the California/Oregon/Washington sperm whale stock is stable because of the uncertainty of the data.

Response: NMFS disagrees. Although the draft 2000 U.S. Pacific Marine Mammal SAR does not explicitly state that the population is stable or increasing, the report indicates that the California/Oregon/Washington sperm whale population has been variable possibly because sperm whale distribution in these waters may vary annually. This variability does not mean that the population is decreasing, but rather the trend is not obvious. In addition, there is evidence that indicates the sperm whale population abundance estimate is an underestimate of true abundance because recent studies suggest sperm whale group sizes may have been underestimated on past line-transect surveys. Furthermore, because a recovery factor of 0.1 is used for the California/Oregon/Washington sperm whale stock, a proportion of the expected net production is allocated towards population growth and compensates for uncertainties that might prevent population recovery, such as biases in the estimation of the minimum population size and maximum growth rates, or errors in the determination of stock structure. Therefore, the uncertainty in the abundance estimate is considered when calculating the PBR value.

Comment 12: One commenter questioned whether a permit could be issued before a sperm whale recovery plan has been circulated for public review.

Response: Section 101(a)(5)(E) of the MMPA requires that ''a recovery plan has been developed or is being developed.'' There currently is a recovery plan being developed for the sperm whale although the draft has not been finalized yet or circulated for public review.

Comment 13: One commenter questioned the incidental take calculations derived for the humpback whale because the calculations do not include take estimates for the California salmon troll fishery or for the Mexican fisheries.

Response: Under section 101(a)(5)(E), NMFS is required to determine whether the incidental mortality and serious injury by commercial fisheries will have a negligible impact on a species or stock listed as threatened or endangered under the ESA. In analyzing the impact of commercial fisheries on humpback whales, NMFS did not include the humpback whale snagged by a central California salmon troller because the interaction was classified as an injury, rather than a serious injury or mortality. In addition, because the California/Oregon/Washington - Mexico humpback whale stock spends approximately half of its time outside the U.S. EEZ (Mexican waters), the PBR for U.S. waters is only half of the overall PBR for the stock, which is intended to account for the amount of time the stock spends outside the U.S. exclusive economic zone (EEZ). For management purposes, NMFS calculates PBR values and mortality estimates for trans-boundary stocks based on the fraction of time in U.S. waters and the mortality estimate based on the calculated estimate of the stock residing in U.S. waters.

Comment 14: One commenter questioned whether a permit should be issued for fin whales because the estimated mean annual mortality is greater than the PBR value reported in the 1996 U.S. Pacific Marine Mammal SAR.

Response: NMFS did not use the PBR value reported in the 1996 U.S. Pacific Marine Mammal SAR because the most recent PBR information is in the draft 2000 U.S. Pacific Marine Mammal SAR. Using a 3-year average (1997, 1998, 1999), the mean annual estimated mortality for fin whales (1.7) is less than the PBR level (2.1) in the draft 2000 U.S. Pacific Marine Mammal SAR.

Comment 15: One commenter questioned whether a permit should be issued if the mean annual take (1997-1999) of the fin whales may be greater than the PBR value reported in the 2000 U.S. Pacific Marine Mammal SAR.

Response: Although the estimated mortality level in the SAR is near the PBR level for the fin whale stock, NMFS had determined that the history of mortality of fin whales incidental to the driftnet fishery has had a negligible impact on the fishery. The other conditions regarding the issuance of the permit have been satisfied; therefore, NMFS must issue the permit.

The negligible impact determination was based upon the 10-year history of the observer program in the fishery. The take observed in 1999 was the only observed mortality during that period. Consequently, NMFS determined that the fishery had a remote likelihood of taking fin whales on an annual basis, which would result in a negligible impact.

The mortality estimate in the SAR was based upon 3 years of data, which is the period that the fishery has been under a take reduction plan. There is no reason to believe that the conservation measures included in the plan (lowered head rope and pinger-equipped nets)

would make the nets more likely to take a fin whale. Therefore, using the 10-year history of observer data in the fishery was appropriate for use in the negligible impact determination.

Comment 16: One commenter stated that a permit should not be issued to the CA/OR drift gillnet fishery for the taking of fin whales because mortality from the Mexican drift gillnet fishery was not considered when calculating the estimated mortality from all commercial fisheries.

Response: NMFS disagrees. The fin whale that was taken by the CA/OR drift gillnet fishery was from the California/Oregon/Washington fin whale stock. For management purposes, this stock does not include animals of the Mexican fin whale stock because there is insufficient information at this time to conclude that the fin whale population that increases seasonally in winter and spring in the Gulf of California is part of the California/Oregon/Washington fin whale stock.

Comment 17: One commenter stated that a permit should not be issued to the CA/OR drift gillnet fishery for the take of fin whales because mortality from ship strikes was not considered when calculating the estimated mortality from all commercial fisheries.

Response: NMFS disagrees. Under section 101(a)(5)(E) of the MMPA, NMFS must determine whether the incidental mortality and serious injury from commercial fisheries will have a negligible impact on such species or stock. For purposes of issuing a permit, NMFS is not required to consider mortality caused by ship strikes.

Comment 18: One commenter stated that a permit may not be issued unless a full and proper National Environmental Policy Act (NEPA) analysis is completed.

Response: NMFS agrees. An EA was prepared for this permit.

Comment 19: One commenter requested that NMFS significantly increase observer coverage levels for the CA/OR drift gillnet fishery as a condition of any future federal authorizations because the incidental take analysis is highly speculative.

Response: NMFS believes that 20-percent observer coverage is sufficient to calculate reliable mortality estimates for species listed under the MMPA and the ESA even though entanglement events are rare. For this reason, NMFS does not intend to require additional observer coverage as a condition of issuing a permit under section 101(a)(5)(E) of the MMPA.

Summary of Findings

NMFS has evaluated the best available information for the four stocks listed as threatened or endangered under the ESA addressed by this permit and has determined, on a stock-by-stock basis, whether the mortality and serious injury (using 3-year averages 1997, 1998, 1999) incidental to the CA/OR drift gillnet fishery is having a negligible impact on such stocks (NMFS, 2000). Based on this assessment, NMFS concludes that the estimated mortality and serious injury caused by the CA/OR drift gillnet fishery would cause no more than a 10-percent increase in the time to recovery for each of the four stocks of marine mammals addressed by this permit and is, therefore, negligible.

These stocks were then reviewed to confirm that: (1) a recovery plan has been developed or is being developed, and (2) where required under section 118 of the MMPA, a monitoring program has been established, vessels engaged in such fisheries are registered, and a take reduction plan has been, or is being, developed.

For the following stocks with documented evidence of fishery-related interactions, NMFS has determined that the mortality and serious injury incidental to the CA/OR drift gillnet fishery will have a negligible impact and issues a permit for incidental takes of:

(1) Fin whale, California/Oregon/Washington stock;

(2) Humpback whale, California/Oregon/Washington-Mexico stock;

(3) Steller sea lion, eastern stock; and

(4) Sperm whale, California/Oregon/Washington stock.

A stock-by-stock summary of the negligible impact determination follows.

Fin whale, California/Oregon/Washington stock: The PBR for this stock is 2.1 whales per year. After the 1997 implementation of the Plan, overall cetacean entanglement rates in the CA/OR drift gillnet fishery dropped considerably. Using a 3-year (1997-1999) average, the annual mean mortality and serious injury rate from the CA/OR drift gillnet fishery is estimated to be 1.7. In addition, during the past 10 years, only one fin whale has been observed taken in this fishery, indicating a remote likelihood of a fin whale take in the CA/OR drift gillnet fishery.

Humpback whale, California/Oregon/Washington-Mexico stock: The PBR level for this stock is 1.7 whales per year. Using a 3-year average (1997-1999), the mean annual mortality and serious injury rate from the CA/OR drift gillnet fishery is estimated to be 0.0 humpback whales. One observed humpback whale entanglement in 1999 was released alive without any trailing gear and was not considered a serious injury or mortality. Since the beginning of the observer program in 1990, there have been no reported mortalities or serious injuries of humpback whales.

Steller sea lion, eastern stock: The PBR level for this stock is 1,368 animals per year. Fishery observers monitored the CA/OR drift gillnet fishery between 1990 and 1999. In both 1992 and 1994, one Steller sea lion mortality was observed incidental to this fishery. Using a 3-year average (1997-1999), the mean annual mortality and serious injury rate from the CA/OR drift gillnet fishery is estimated to be 0.0 animals for the CA/OR drift gillnet fishery.

Sperm whale, California/Oregon/Washington stock: The PBR level for this stock is 2.0 whales per year. In 1998, one sperm whale was observed killed in a net that was not in compliance with the Plan. Using a 3-year average (1997-1999), the mean annual mortality and serious injury rate from the CA/OR drift gillnet fishery is estimated to be 1.7 sperm whales. The Team recommended no further strategies to reduce sperm whale entanglement be taken until the effectiveness of pingers is better understood. At the recommendation of the Team, NMFS conducted workshops to educate vessel operators on the need to use the full complement of pingers required by the Plan. NMFS enforcement also trained the U.S. Coast Guard about the requirements of the Plan and requested their assistance with at-sea enforcement.

NMFS prepared an EA on the final rule to implement the Plan (62 FR 51805, October 3, 1997). That EA has been reissued and modified to include the effects of: (1) issuance of this permit, (2) additional species of sea turtles and marine mammals, (3) minor changes to the Plan.

Issuance of Permits

Based on requirements of section 101(a)(5)(E) of the MMPA, NMFS is issuing a permit to allow the incidental, but not intentional, taking of four stocks of endangered or threatened marine mammals to the CA/OR drift gillnet fishery: (1) fin whale, California/Oregon/Washington stock; (2) humpback whale, California/Oregon/Washington-Mexico stock; (3) Steller sea lion, eastern stock; and (4) sperm whale, California/Oregon/Washington stock. These permits may be suspended or revoked if the level of take is likely to result in an impact that is more than negligible.

References

Barlow, J., S. Swartz, T. Eagle, and P. Wade. 1995. U.S. Marine Mammal Stock Assessments: Guidelines for Preparation, Background, and a Summary of the 1995 Assessments. U.S. Department of Commerce, NOAA Technical Memorandum NMFS-SWFSC-219. 162 p.

Cameron, G.A., and K.A. Forney. 2000. Preliminary Estimates of Cetacean Mortality in California/Oregon Gillnet Fisheries for 1999. Intl. Whal. Comm. Working paper. SC/52/024.

National Marine Fisheries Service. 2000. Assessment for Issuing a Permit Under Section 101(a)(5)(E) of the Marine Mammal Protection Act to the California/Oregon Drift Gillnet Fishery. Southwest Region, Protected Resources Division.

Dated: October 24, 2000.

Donald R. Knowles,

Director, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 000927276-0276-01; I.D. No. 101000CH]

RIN 0648-ZA94

Coastal Services Center Broad Area Announcement

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of Federal assistance.

SUMMARY: The NOAA Coastal Services Center announces the availability of Federal assistance for Fiscal Year (FY) 2001 in the following areas: Landscape Characterization and Restoration, Integration and Development, and Special Projects. This announcement provides guidelines for these program areas and includes details for the technical program, evaluation criteria, and selection procedures of each program. Selected recipients will enter into either a cooperative agreement with the Center or receive a grant depending upon the amount of the Center's involvement in the project-- substantial involvement means a cooperative agreement, while independent work requires a grant.

DATES: Each program area has specific dates for application and proposal deadlines. Refer directly to that program area description under **SUPPLEMENTARY INFORMATION**. Applicants are required to prepare separate packages for each proposal submitted.

ADDRESSES: Send all proposals to: NOAA Coastal Services Center, 2234 South Hobson Avenue, Charleston, SC 29405-2413. Landscape Characterization and Restoration proposals should be sent to the attention of Pace Wilber. Integration and Development proposals should be sent to the attention of Cindy Fowler. Special Project proposals should be sent to the attention of Jan Kucklick. Upon receipt of proposals, the Center's Program Managers must ensure proposals are time stamped.

FOR FURTHER INFORMATION CONTACT: Administrative questions should be directed to Violet Legette, (843)-740-1222 or Violet. Legette@noaa.gov. Technical point of contact for Landscape Characterization and Restoration is Pace Wilber, (843)-740-1235 or Pace.Wilber@noaa.gov. Technical point of contact for Integration and Development is Cindy Fowler,(843)-740-1249 or Cindy.Fowler@noaa.gov. Technical point of contact for Special Projects, Special Projectsf or the Pacific Islands, and Technical Assistantship for the Pacific Islands is Jan Kucklick, (843)-740-1279 or Janet.Kucklick@noaa.gov.

SUPPLEMENTARY INFORMATION:

Authority

Statutory authority for these programs is provided under 16 U.S.C. 1456c (Technical Assistance); 15 U.S.C. 1540 (Cooperative Agreements); 33 U.S.C. 1442 (research program respecting possible long-range effects of pollution, over fishing, and man-induced changes of ocean ecosystems); 33 U.S.C. 883a (surveys and other activities); 33 U.S.C. 883b (dissemination of data); 33 U.S.C. 883c (geomagnetic data collection, correlation, and dissemination); and 33 U.S.C. 883d (improvement of methods, instruments, and equipments; investigations and research).

Compliance

The recipients must comply with Executive Order 12906 regarding any and all geospatial data collected or produced under grants or cooperative agreements. This includes documenting all geospatial data in accordance with the Federal Geographic Data Committee Content Standard for digital geospatial data.

Electronic Access

All applicants are required to submit a NOAA grants application package and project proposal. The standard NOAA grants application package (which includes forms SF-424, SF-424A, SF-424B, SF-424C, SF-424D, CD-511, CD-512, and SF-LLL) can be obtained from the NOAA grants Website at http://www.rdc.noaa.gov/grants/pdf/. Funding will be subject to the availability of Federal appropriations.

Minority Serving Institutions

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges and Universities in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

Catalog of Federal Domestic Assistance

The NOAA Coastal Services Center Program is listed in the Catalog of Federal Domestic Assistance under Number 11.473.

General Background

Guiding the conservation and management of coastal resources is a primary function of NOAA. NOAA accomplishes this goal through a variety of mechanisms, including collaboration with the coastal resource management programs of the nation's states and territories. The mission of the NOAA Coastal Services Center (Center) is to foster and sustain the environmental and economic well-being of the coast by linking people, information, and technology. The goal of the Center is to build capabilities throughout the nation to address pressing issues of coastal health and change by promoting coastal resource conservation and efficient and sustainable commercial and residential development. Landscape Characterization And Restoration - Information Resource For A West Coast United States Watershed

Project Description

NOAA's Coastal Services Center seeks proposals from tribal, regional, state, or local government agencies; academic

institutions; or nonprofit organizations for a 2-year cooperative agreement under which a cooperator and the Center will jointly develop a digital information resource for an estuarine watershed, group of watersheds, or management area within the states of California, Oregon, Washington, or Alaska. Cooperators can choose any estuarine watershed or coastal management area within these states. The information resource must focus on one or more resource management needs of the chosen watershed or management area and emphasize examinations of ecosystem function through the integration of physical, ecological, and socioeconomic analyses. The cooperator will choose the management needs that will be focused on, for example a regional habitat restoration plan, non-point source pollution management plan, long-term dredged material management plan, species recovery plan, or detailed environmental description. The information resource must clearly help coastal managers make resource management, regulatory, or land-use planning decisions. Total anticipated funding is $270,000 over two years and is subject to the availability of FY 2001 and FY 2002 appropriations. Only one award is anticipated from this announcement.

Background

This announcement is a call for proposals for work under the Center's Landscape Characterization and Restoration (LCR) Program. The goal of the program is to help Federal, state, and local coastal managers include ecosystem processes in their resource management, regulatory, and land-use planning decisions. The program and program partners will work towards this goal by examining interrelationships among ecological, land use, human demographic, and socioeconomic trends in coastal watersheds and by developing tools needed to integrate those relationships into management practices.

The program's principal products are environmental characterizations of watersheds that integrate the ecological and socioeconomic information needed to address management issues identified by cooperators. Final products are in a digital format and distributed via CD-ROM and the Internet and include a spatial database, a customized Geographic Information System interface, and a narrative that provides a detailed overview of the focal management issues, how the accompanying information was used to examine potential solutions, and how the overall product can be used in future examinations. The program and its cooperators are currently working on, or have completed, characterizations of Otter Island (South Carolina), the ACE Basin (South Carolina), Kachemak Bay (Alaska), and Rookery Bay/Belle Meade (Florida), and coastal Rhode Island. Overviews of the program and these projects are available through the Internet at http://www.csc.noaa.gov/lcr/ .

Roles and Responsibilities

By working in a cooperative partnership, the unique skills, capabilities, and experiences of the Center and the cooperator will be combined and offer an opportunity for each organization to further its goals. In their proposals, potential cooperators shall explicitly propose the respective roles and responsibilities of the Center and the cooperator. General areas of responsibilities that the Center has had in past projects include: development of spatial models, analyses, and data to address the identified management issues; design of GIS and HTML architectures; and compilation of final products onto a CD-ROM and Internet site. Any questions about appropriate roles for the Center can be directed to Pace.Wilber@noaa.gov.

General areas of responsibility that cooperators have included the following: identifying the management issues that guide development of the information resource; identifying the information needed to address the issues; developing partnerships with other members of the coastal management community; developing and collecting the information (text, tables, graphics, charts, and maps) and tools (organizational structure and models) needed to address the management issues; developing metadata; and determining how the products should be organized to maximize usefulness within the coastal management community.

Project Proposals

The Center must receive one original and two copies of the proposals by 5 pm (Eastern time) on January 12, 2001. Proposals postmarked January 12, 2001, but not received until after January 12, 2001, will not be accepted. In addition to providing the following information, the cooperator must submit a complete NOAA grants package (with signed originals). No e-mail or fax copies will be accepted. All project proposals must total no more than 10 pages (double spaced, 12-point font, and exclusive of appendices). Appendices should be limited to materials that directly support the main body of the proposal; e.g., support letters, resumes, lists of data sources, maps. All appendix material must be unbound.

All proposals must include the sections listed here:

Goal, Objective(s), and Geographic Area. Identify the specific geographic area that will be examined. Identify the specific management objective(s) of the project, including description of current management goals that are not being achieved, how products from this cooperative agreement will significantly address that deficiency, and the benefits that will result to the cooperators, partners, public, and coastal management community.

Background/Introduction. Provide sufficient background information for reviewers to independently assess the local significance and regional importance of the management objectives that will be addressed by the project. Summarize the status of any existing efforts by the cooperator and partners to address these objectives.

Audience. Identify potential users of the product, how those users will incorporate the product in their management of coastal resources, and identify any training that will be needed for users to make full use of the information resource.

Project Description/Methodology. Provide a general work plan that divides the project into discrete steps, identifies critical decision points, and discusses any obstacles to completing the project that may require special planning, and explicitly outlines the respective roles of the cooperator, partners, and Center. One of the initial tasks of the cooperative agreement will be for the Center and the cooperator to prepare a detailed task plan that explains how the resources of all parties will be leveraged to produce the products. The work plan requested for this part of the proposal should demonstrate that the cooperator and partners have sufficient local knowledge of the management problems to lead a innovative effort directed towards developing appropriate solutions.

Project Partners and Support. Identify project partners and describe their respective roles. Include a letter from partners acknowledging their participation in the project. Describe the resources the cooperators and partners have for conducting the project, including personnel qualifications (education, experience, and time available to work on the project), facilities, equipment, and, to the extent practicable, the information and tools already available. Describe how widely the project is supported within the

coastal management community and offer evidence of that support.

Milestone Schedule. List target milestones, time lines, and describe how each milestone addresses project objectives.

Project Budget. Provide a detailed budget description that follows the categories and formats in the NOAA grants package and a brief narrative justification of the budget.

Evaluation Criteria (with Weights) and Selection Process

Review panels will be established using two NOAA and at least two non-NOAA reviewers to assist in the evaluation of the proposals. All proposals received will be ranked according to score and the selecting official (Center Director) will use those scores to aid in making the final decision. The selecting official may also consider program policy factors in the final decision to ensure that Center projects are balanced geographically and institutionally. Evaluation criteria are:

Significance (20 points). How well the proposal demonstrates the local significance and regional importance of the issues(s) or management objective(s) that will guide development of the information resource. At a minimum, the proposal must identify management goals that currently are not being achieved, describe how products from this cooperative agreement will significantly address that deficiency, and state the benefits that will result to the public and coastal management community.

Technical Approach (25 points). How well the proposal divides the project into discrete tasks that make effective use of the technical capabilities of the cooperator, partner(s), and Center. This factor also includes the technical merit of the process that the cooperator has outlined for developing the information resource.

Innovation (25 points). How well the proposed work will integrate technology; socioeconomic, physical, and ecological information; and public participation to accomplish project goals and objectives.

Outcomes (10 points). How well the applicant demonstrates that the project outcomes will significantly address the management issue(s) targeted by the project and that the collective resources of the applicant and partners will ensure projected outcomes are met.

Partnerships (10 points). How well the proposal demonstrates that the project is broadly supported by the coastal management community, that a broad group of coastal managers and constituent will benefit from contributing to design and assembly of product(s); that a broad group of coastal managers will use the product(s).

Cost Efficiency (10 points). How well the applicant demonstrates that the budget is commensurate with project needs and that the partnerships employed will improve the overall cost effectiveness of the project and value of the products.

Selection Schedule

Proposals will be reviewed once during the year. The following schedule lists the dates for the project selection and award process for grants and/or cooperative agreements:

Proposal Deadline (with completed grant package) - January 12, 2001.

Earliest Approximate Grant start date - August 1, 2001. Note: All deadlines are for receipt by close of business (5 p.m. Eastern time) on the dates identified. Receipt of proposal and grant package (with original signatures) will be time stamped. E-mail or fax copies will not be accepted. One original and two copies of the proposal and grant paperwork are required.

Funding Availability

Specific funding available for awards will be finalized after NOAA funds for FY 2001 are appropriated. Total funding available for this cooperative agreement with the LCR program is anticipated to be $270,000 over 2 years. One award is anticipated from this announcement. Publication of this document does not obligate NOAA toward any specific grant or cooperative agreement or to obligate all or any parts of the available funds.

Cost Sharing

There is no requirement for cost sharing in response to these guidelines, however, proposals that include cost sharing will likely score highly under evaluation criteria that examines cost efficiency.

Eligibility Criteria

Eligible applicants are institutions of higher educations, hospitals, other non-profits, commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, international organizations, and state, local and Indian tribal governments. Federal agencies or institutions are not eligible to receive Federal assistance under this announcement, but may be project partners. Note: Federal agencies or institutions who are project partners must demonstrate that they have legal authority to receive funds from another Federal agency in excess of their appropriation. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

Authority

Statutory authority for these programs is provided under 16 U.S.C. 1456c (Technical Assistance); 15 U.S.C. 1540 (Cooperative Agreements); and 33 U.S.C. 1442 (research program respecting possible long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems).

Integration And Development - Bathymetric Data Collection Project Description

The NOAA Coastal Services Center seeks proposals from state, local or regional resource management agencies, port authorities, and academic institutions for projects that conduct new acquisition and supporting documentation of bathymetric data. Private companies and agencies in partnership with the previously mentioned collaborators are also invited to submit proposals. The intent of this program is to support high quality hydrographic digital data collection efforts for public resource management needs and can be used to supplement current NOAA NOS nautical chart data collection programs. It is expected that this funding will supplement agencies who are already considering hydrographic surveys for beach renourishment projects, sand and sediment transport studies, fisheries management, benthic habitat evaluations, dredging, dredge disposal siting projects, and other related projects.

A major objective of this program is to rescue, document, and make available bathymetric data for marine applications. The geographic extent of desired data is from the area (on-shore) of tidal influence out to the Exclusive Economic Zone. Maximum anticipated funding for FY 2001 is $200,000 and it is intended that this funding will be distributed amongst multiple projects. The award level is contingent on methodology, the level of detail, and the geographic scope of the project. See evaluation criteria for cost sharing requirements.

Background

Under the NOAA, NOS strategic efforts to support safe navigation, hydrographic surveys are conducted to produce nautical charts. For safety reasons, these surveys are conducted using strict hydrographic survey procedures (refer to the following

Uniform Resource Locator (ULR) for more information about these procedures): http://chartmaker.ncd.noaa.gov/ocs/text/prodserv.htm .

In addition to its intended charting purpose, hydrographic survey data is very useful to the coastal and ocean resource management community in the production of bathymetry. Moreover, hydrographic survey requirements for resource management need not be as rigorous as navigation surveys that protect life and limb. Supporting this community is an additional mandate of NOS under its coastal stewardship strategic goal. Due to financial constraints, NOS has only been able to commit to new surveys in major commercial shipping areas. Near shore and estuarine areas not generally deemed a navigational hazard are currently not routinely surveyed. Many of these areas are of interest to the coastal resource managers for projects related to dredging, dredge disposal, habitat studies, sediment transport, and beach renourishment projects.

NOAA is interested in supplementing its current hydrographic survey data collection with data from non-NOAA sources to meet strategic goals. In addition, NOAA is interested in helping non-NOAA sources acquire data using standards and documentation that will increase the usability and longevity of the data. NOAA is committed to helping third-party data creators document and make these data available to the marine community using standards and protocols outlined by the Federal Geographic Data Committee (FGDC). Specifically, NOAA is interested in helping foster the development of high quality accurate digital bathymetric data for use in desktop GIS for coastal and ocean resource management and updating nautical charts.

Project Proposals

The Center must receive one original and two copies of the proposals by 5 p.m. (Eastern time) on January 12, 2001. Proposals postmarked January 12, 2001, but not received until after January 12, 2001, will not be accepted. In addition to providing the following information, the cooperator must submit a complete NOAA grants package (with signed originals). No e-mail or fax copies will be accepted. All project proposals must total no more than 10 pages (double spaced, 12-point font, and exclusive of appendices). Appendices should be limited to materials that directly support the main body of the proposal; e.g., support letters, resumes, lists of data sources, maps. All appendix material must be unbound. All projects proposals must include the sections listed here:

Project Description/Methodology. This section should address the general work plan and deliverables. Methodology should address specific methods of data collection and documentation that as a minimum include the methods of sounding, methods of correcting for motion of the survey platform, methods of horizontal positioning, and methods of corrections for tide. In addition, proposal should include limits of survey area and density of line spacing and sounding interval. Proposal should include a section of chart that outlines the survey area and orientation to the depth contour. Database format must be adequately described and include a supplemental descriptor file or metadata that contains the information necessary for completing an FGDC-compliant metadata record for the survey.

Project Partners and Subcontractors. Proposal should identify project partners and describe their respective roles. Include a letter from partners and subcontractors acknowledging their participation and area of responsibility. All projects must have a state, local, or regional coastal resource management agency as a primary participant.

Milestone Schedule. Proposal should list target milestones and their respective time lines.

Project Budget. Proposal should provide a detailed budget breakdown that follows the categories and formats in the NOAA grants package and a brief narrative that justifies each item.

Evaluation Criteria (With Weights) and Selection Process

Review panels will be established using two NOAA and two non-NOAA experts in the field of hydrographic survey methodology, tidal correction, and spatial data acquisition. All proposals received will be ranked according to score and the selecting official (Center Director) will use those scores to aid in making the final decision. The selecting official may also consider program policy factors in the final decision to ensure Center projects are balanced geographically and institutionally. Evaluation criteria are:

Technical Merit (65 points). The proposal will be judged on the methodology used to collect the data. This includes the corrections for vessel motion (heave, roll and pitch), equipment used, and method of sounding, and corrections for tide. It is expected that differential Global Positioning System (GPS) will be used as the method of horizontal positioning, but this should be specifically addressed. Though not required, any corrections for sound velocity (in shallow water) or settlement and squat could positively influence this weighting.

Data Density, Geographic Scope, and Orientation (10 points). This weighting will be based on the level of detail of the survey. Project description should include a map or graphic that outlines the intended spatial extent of the survey, the density of the line spacing or number of soundings, and the orientation of the survey platform to the depth contour.

Data Delivery Mechanism and Documentation (10 points). Project will be judged on the database schema and documentation of the delivered data. Points will be awarded or deleted for the inclusion or absence of a coherent metadata strategy.

Theme (10 points). The purpose or theme of the survey will be part of the weighting criteria. As stated earlier, one of the objectives of the Center is to foster improved bathymetric data access for the coastal and ocean resource community. Projects deemed to fall within this scope will be given additional weight. Additional weight will be given for the project's demonstrated applicability to coastal or ocean resource management.

Cost-Sharing (5 points). There is no requirement for cost sharing; however, additional points will be awarded in proportion to the amount of cost sharing proposed. Applicant will have to cost share at least 10 percent to receive 1 point, 20 percent to receive 2 points, 30 percent to receive 3 points, 40 percent to receive 4 points, and 50 percent to receive 5 points.

Selection Schedule

Proposals will be reviewed once during the year. The following schedule lists the dates for the project selection and award process for grants and/or cooperative agreements:

Proposal Deadline (with completed grant package) - January 12, 2001.

Earliest Approximate Grant Start Date - August 1, 2001.

Note: All deadlines are for receipt by close of business (5 p.m. Eastern time) on the dates identified. Receipt of proposal and grant package (with original signatures) will be time stamped. E-mail or fax copies will not be accepted. One original and two copies of the proposal and grant paperwork are required.

Funding Available

Specific funding available for awards will be finalized after NOAA funds for FY 2001 are appropriated. Total funding

available for this grant or cooperative agreement with the Integration and Development program is anticipated to be no more than $200,000 and funding will be distributed over multiple projects. Publication of this notice does not obligate NOAA toward any specific grant or cooperative agreement or to obligate all or any parts of the available funds.

Cost Sharing

There is no requirement for cost sharing in response to these guidelines; however, proposals that include cost sharing will likely score highly under the cost sharing criteria noted here.

Eligibility Criteria

Eligible applicants are institutions of higher educations, hospitals, other non-profits, foreign governments, organizations under the jurisdiction of foreign governments, international organizations, and state, local and Indian tribal governments. Commercial organizations that have a formal collaborative partnership with a state or local resource coastal management office are encouraged to apply. Federal agencies or institutions are not eligible to receive Federal assistance under this notice, but may be project partners.

Note: Federal agencies or institutions who are project partners must demonstrate that they have legal authority to receive funds from another federal agency in excess of their appropriation. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

Authority

Statutory authority for these programs is 33 U.S.C. 883a (surveys and other activities) and 33 U.S.C. 883c (geomagnetic data; collection, correlation, and dissemination).

Special Projects

The NOAA Coastal Services Center is seeking proposals for special technical, management, or planning projects that relate to growth management in coastal areas or human use of coastal resources. Project proposals are due January 12, 2001, (with earliest start date of August 1, 2001). See Selection Schedule following. Anticipated funding in FY 2001 will be between $50,000 and $150,000. Two to six projects will be funded in the $20,000 to $25,000 range for 1 year with the potential for option years (depending on the availability of funds through the federal appropriation process). Projects above $25,000 will not be considered.

Background

The Center conducts a variety of projects that directly apply to the state and local coastal management community. The goal of Special Projects is to provide assistance to the local coastal management community for technical or management issues on specific topics relating directly to growth management in coastal areas or human use of coastal resources.

In FY 2001, the Center expects to award grants and cooperative agreements (for those projects with substantial Center involvement) to organizations across the United States with proven abilities to implement practical solutions at a state and local level. Proposed study topics must relate to growth management in coastal areas or to human use of coastal resources. All project proposals received that meet the topic criteria will be reviewed for technical merit and management relevance.

Project Proposals

The Center must receive one original and two copies of the proposals by 5 p.m. (Eastern time) on January 12, 2001. Proposals postmarked January 12, 2001, but not received until after January 12, 2001, will not be accepted. In addition to providing the following information, the cooperator must submit a complete NOAA grants package (with signed originals). No e-mail or fax copies will be accepted. All project proposals must total no more than 10 pages (double spaced, 12-point font, and exclusive of appendices). Appendices should be limited to materials that directly support the main body of the proposal; e.g., support letters, resumes, lists of data sources, maps. All appendix material must be unbound. All projects proposals must include the sections listed here:

Goals and Objectives. Identify broad project goals and quantifiable objectives.

Background/Introduction. State the problem and summarize existing efforts at all levels.

Audience. Describe specifics of how the project will contribute to improving or resolving an issue with the primary target audience. The target audience must be explicitly stated.

Project Description/Methodology. Describe the specifics of the projects (3 page maximum).

Project Partners. Identify project partners and their respective roles.

Milestones and Outcomes. List target milestones, Time lines, and desired outcomes in terms of products and services.

Project Budget. Proposal should provide a detailed budget breakdown that follows the categories and formats in the NOAA grant package and a brief narrative that justifies each item.

Evaluation Criteria (With Weights) and Selection Process

Review panels will be established using two NOAA and at least two non-NOAA reviewers to assist in the evaluation of the proposals. All proposals received will be ranked according to score and the selecting official (Center Director) will use those scores to aid in making the final decision. The selecting official also may consider program policy factors in the final decision to ensure Center projects are balanced geographically and institutionally. Evaluation criteria are:

Management Relevance (30 points)

Does the proposed project (directly or indirectly) address a critical national, regional, state, or local management need relating directly to growth management of coastal areas or human use of coastal resources?

Does the project involve partnerships with the state coastal management agency, National Estuarine Research Reserve, and/or National Marine Sanctuary?

Does the proposed project have a clearly defined management audience and do the products have clearly defined users?

Technical Merit (35 points)

Is the approach technically sound?

Does the proposed project build on existing knowledge?

Are the project goals and objectives clear and concise?

Does the proposed project provide for long-term maintenance or sustainability of products and services?

Is the approach innovative?

Applicability and Effectiveness of Products and their Delivery (25 points)

Will the proposed project produce useful (and easily used) products, services, or an understanding for the target audience and users?

Is project time line and project design likely to be flexible and responsive to public and user input?

Is an evaluation process built into the project? Is it appropriate?

Efficiency and Overall Qualifications (10 points)

Is the budget commensurate with the project needs?

Are the proposers capable of conducting a project of the scope and scale proposed? (i.e., Are there adequate professional, facility, and administrative capabilities?)

Selection Schedule

Proposals will be reviewed once during the year. The following schedule lists the dates for the project selection and award process for grants and/or cooperative agreements:

Proposal Deadline (with completed grant package) January 12, 2001.

Earliest Appropriate Grant Start Date - August 1, 2001

Note: All deadlines are for receipt by close of business (5 p.m. Eastern time) on the dates identified. Receipt of proposal and grant package (with original signatures) will be time stamped. E-mail or fax copies will not be accepted. One original and two copies of the proposal and grant paperwork are required.

Funding Availability

Specific funding available for the award will be finalized after NOAA funds for FY 2001 are appropriated. Publication of this document does not obligate NOAA toward any specific grant or cooperative agreement or to obligate all or any parts of the available funds.

Cost Sharing

There is no requirement for cost sharing in response to this program announcement and no additional weight will be given to proposals with cost sharing.

Eligibility Criteria

Eligible applicants are institutions of higher educations, hospitals, other non-profits, commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, international organizations, and state, local and Indian tribal governments. Federal agencies or institutions are not eligible to receive Federal assistance under this announcement, but may be project partners.

Note: Federal agencies or institutions who are project partners must demonstrate that they have legal authority to receive funds from another Federal agency in excess of their appropriation. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

Authority

Statutory Authority for these programs is provided under 16 U.S.C. 1456C (Technical Assistance).

Special Projects for the Pacific Islands

Project Description

NOAA's Coastal Services Center is seeking proposals for special technical, management, or planning projects that directly apply to the goals of the Pacific Island coastal management community. Projects topics should relate to one or more of the four themes of the Coastal Services Center: Habitat, Hazards, Coastal Communities, or National Spatial Data Infrastructure (NSDI). Project proposals are due January 12, 2001, (with earliest start date August 1, 2001). See ''Selection Schedule'' following. Anticipated funding in FY 2001 will be between $50,000 and $500,000. Projects will be funded in the $25,000 to $75,000 range for 1 year with the potential for options years (depending on the availability of funds through the Federal appropriation process).

Background

The Coastal Services Center conducts a variety of projects that directly apply to the state and local coastal management community. The goal of this program is to provide assistance to the Pacific Island coastal management community for technical or management issues on a very broad range of topics related to coastal resources and their wise management.

In FY 2001, the Center expects to award grants and cooperative agreements (for those projects with substantial Center involvement) to organizations with proven abilities to implement practical solutions in the Pacific Islands at a state and local level. Proposed study topics must relate to one or more of the Center's themes: Habitat, Hazards, Coastal Communities, or NSDI.

Project Proposal

The Center must receive one original and two copies of the proposals by 5 p.m. (Eastern time) on January 12, 2001. Proposals postmarked January 12, 2001, but not received until after January 12, 2001, will not be accepted. In addition to providing the following information, the cooperator must submit a complete NOAA grants package (with signed originals). No e-mail or fax copies will be accepted. All project proposals must total no more than 10 pages (double spaced, 12-point font, and exclusive of appendices). Appendices should be limited to materials that directly support the main body of the proposal; e.g., support letters, resumes, lists of data sources, and maps. All appendix materials must be unbound. All projects proposals must include the sections listed here:

Goals and Objectives. Identify broad project goals and quantifiable objectives.

Background/Introduction. State the problem and summarize existing efforts at all levels.

Audience. Describe specifics of how the project will contribute to improving or resolving an issue with the primary target audience. The target audience must be explicitly stated.

Project Description/Methodology. Describe the specifics of the projects (3 page maximum).

Project Partners. Identify project partners and their respective roles.

Milestones and Outcomes. List target milestones, time lines, and desired outcomes in terms of products and services.

Project Budget. Proposal should provide a detailed budget breakd own that follows the categories and formats in the NOAA grant package and a brief narrative that justifies each item.

Evaluation Criteria (With Weights) and Selection Process

Review panels will be established using two NOAA and at least two non-NOAA reviewers to assist in the evaluation of the proposals. All proposals received will be ranked according to score and the selecting official (Center Director will use those scores to aid in making the final decision. The selection official also may consider program policy factors in the final decision to ensure Center projects are balanced geographically and institutionally.

Evaluation criteria are: Management Relevance (30 points)

Does the proposed project (directly or indirectly) address a critical national, regional, state, or local management need relating directly to growth management of coastal areas or human use of coastal resources?

Does the project involve partnerships with the state coastal management agency, National Estuarine Research Reserve, and/or National Marine Sanctuary?

Does the proposed project have a clearly defined management audience and do the products have clearly defined users?

Technical Merit (35 points)

Is the approach technically sound?

Does the proposed project build on existing knowledge?

Are the project goals and objectives clear and concise?

Does the proposed project provide for long-term maintenance or sustainability of products and services?

Is the approach innovative?

Applicability and Effectiveness of Products and their Delivery (25 points)

Will the proposed project produce useful (and easily used) products, services, or an understanding for the target audience and users?

Is project time line and project design likely to be flexible and responsive to public and user input?

Is an evaluation process built into the project? Is it appropriate?

Efficiency and Overall Qualifications (10 points)

Is the budget commensurate with the project needs?

Are the proposers capable of conducting a project of the scope and scale proposed (i.e., Are there adequate professional, facility, and administrative capabilities?)

Selection Schedule

Proposals will be reviewed once during the year. The following schedule lists the dates for the project selection and award process for grants and/or cooperative agreements:

Proposal Deadline (with completed grant package) - January 12, 2001

Earliest Approximate Grant Start Date - August 1, 2001

Note: All deadlines are for receipt by close of business (5 p.m. Eastern time) on the dates identified. Receipt of proposal and grant package (with original signatures) will be time stamped. E-mail or fax copies will not be accepted. One original and two copies of the proposal and grant paperwork are required.

Funding Available

Specific funding available for awards will be finalized after NOAA funds for FY 2001 are appropriated. Publication of this notice does not obligate NOAA toward any specific grant or cooperative agreement or to obligate all or any parts of the available funds.

Cost Sharing

There are no requirements for cost sharing in response to this program announcement and no additional weight will be given to proposals with cost sharing.

Eligibility Criteria

Eligible applicants are institutions of higher educations, hospitals, other non-profits, commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, international organizations, and state, local and Indian tribal governments. Federal agencies or institutions are not eligible to receive Federal assistance under this notice, but may be project partners. Note: Federal agencies or institutions who are project partners must demonstrate that they have legal authority to receive funds from another Federal agency in excess of their appropriation. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C 1535) is not an appropriate legal basis.

Authority

Statutory Authority for these programs is provided under 16 U.S.C. 1456C (Technical Assistance).

Technical Assistantship For The Pacific Islands

Project Description

The NOAA Coastal Services Center is seeking proposals for the development and administration of 2-year grants to support post-graduate students working for the Pacific Island coastal zone management programs. This includes those programs in Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Marianas. Project proposals are due January 12, 2001 (with earliest start date August 1, 2001). See Selection Schedule following. Total anticipated funding in FY 2001 will be between $75,000 and $300,000. Each assistantship will be funded in the $75,000 to $100,000 range to cover both years of one student. It is anticipated that one to four students will be placed in FY 2001. There must be a balance in location of student placement so that over any given several year period, all four Pacific coastal zone management programs will receive a student.

All project proposals must define how students will be selected and placed, must provide a mechanism for determining where students are placed, and must include a mechanism to ensure that the skills and expertise of the selected students match the needs and requirements of the selected Pacific Island coastal zone management program.

This would be a cooperative agreement between the Center and the cooperator for 2 years with the option to extend for 4 years (depending on the availability of funds through the Federal appropriations process).

Background

The goal of this program is to provide assistance to the Pacific Island coastal zone management agencies on technical and management issues that directly relate to the agencies' needs and requirements. This program is administratively and programmatically distinct from the NOAA Coastal Management Fellowship program. In FY 2001, the Center expects to award one to two cooperative agreements to design, implement, and administer this program.

Roles and Responsibilities

These projects are intended to be cooperative in nature. The following items identify the minimum project participation expected by the Center and the project applicant. Additional roles and responsibilities should be identified by the applicant.

Coastal Services Center shall have primary responsibility for ensuring that the needs and requirements of the selected Pacific Island coastal zone management agency are being met through this assistantship program. To this end, the Center will:

Provide information to the applicant on the needs of the Pacific Island coastal zone management agency prior to the recruiting of the assistants, and

Serve as a reviewer on all student applications to help ensure that the selected students' expertise match with the needs of the Pacific Island coastal zone management programs. The applicant shall have primary responsibility for the following activities associated with this program:

Design process for recruitment and selection.

Select Pacific Island coastal zone management programs(s) for student placement.

Announce and select assistants.

Support and administer assistants - This shall include all activities related to the financial support and administration of the assistants. These activities include arranging for and supporting medical insurance, worker's compensation insurance, state and federal income tax withholdings, and FICA withholdings; coordinating and providing reimbursement for moving expenses, salary disbursement to the assistants; and coordinating and supporting and travel for the assistants. The Coastal Services Center and the Applicant shall share joint responsibility for the following activities associated with this program:

Publicize the program. This shall include general announcement and publicity measures to provide general information about the program, specific announcements of the selection processes, and specific announcements of the results of the selection processes. Newsletters, facts sheets, Web sites, and conference poster sessions should all be considered potential publicity mechanisms.

Solicit other partners. To ensure the continued success and further development of the program, both organizations should consider recruiting other partners to provide financial support and opportunities for future assistants.

Project Proposals

The Center must receive one original and two copies of the proposals by 5 p.m. (Eastern time) on January 12, 2001. Proposals postmarked January 12, 2001, but not received until after January 12, 2001, will not be accepted. In addition to providing the following information, the cooperator must submit a complete NOAA grants package (with signed originals). No e-mail or fax copies will be accepted. All project proposals must total no more than 10 pages (double-spaced, 12-point font, and exclusive of appendices). Appendices should be limited to materials that directly support the main body of the proposal; e.g., support letters, resumes, lists of data sources, maps. All appendix material must be unbound. All projects proposals must include the sections listed here:

Goals and Objectives. Identify broad project goals and quantifiable objectives.

Background/Introduction. State the problem and summarize existing efforts at all levels.

Audience. Describe specifics of how the project will contribute to improving or resolving an issue with the primary target audience. The target audience must be explicitly stated.

Project Description/Methodology. Describe the specifics of the process for development and administration (4 pages maximum).

Project Partners. Identify project partners and their respective roles.

Milestones and Outcomes. List target milestones, time lines, and desired outcomes in terms of products and services.

Project Budget. Proposal should provide a detailed budget breakdown that follows the categories and formats in the NOAA grant package and a brief narrative that justifies each item. Salary, per diem, travel, and benefits of selected students must be included in the budget.

Evaluation Criteria (With Weights) and Selection Process

Review panels will be established using two NOAA and at least two non-NOAA reviewers to assist in the evaluation of the proposals. All proposals received will be ranked according to score and the selecting official (Center Director) will use those scores to aid in making the final decision. The selecting official also may consider program policy factors in the final decision to ensure Center projects are balanced geographically and institutionally. Evaluation criteria are:

Technical Relevance (70 points)

Does the approach identify an effective mechanism for defining how students will be selected and placed?

Does the approach identify an effective mechanism for determining where students are placed?

Does the approach identify an effective mechanism for ensuring that the skills and expertise of the selected students match the needs and requirements of the selected Pacific Island coastal zone management program?

Is an evaluation process built into the project? Is it appropriate?

Does the project involve partnerships with the state coastal management agency, National Estuarine Research Reserve, and/or National Marine Sanctuary?

Efficiency and Overall (30 points)

Is the budget commensurate with the project needs? on existing knowledge?

Are the proposers capable of conducting a project of the scope and scale proposed? (i.e., Are there adequate professional, facility, and administrative capabilities?)

Selection Schedule

Special projects will be reviewed once during the year. The following schedule lists the dates for the project selection and award process for grants and/or cooperative agreements:

Proposal Deadline (with complete grant package) January 12, 2001. Earliest Approximate Grant start date August 1, 2001.

Note: All deadlines are for receipt by close of business (5 p.m. Eastern time) on the dates identified. Receipt of proposal and grant package (with original signatures) will be time stamped. E-mail or fax copies will not be accepted. One original and two copies of the proposal and grant paperwork are required.

Funding Available

Specific funding available for awards will be finalized after NOAA funds for FY 2001 are appropriated. Publication of this announcement does not obligate NOAA toward any specific grant or cooperative agreement or to obligate all or any parts of the available funds.

Cost Sharing

There is no requirement for cost sharing in response to this program announcement and no additional weight will be given to proposals with cost sharing.

Eligibility Criteria

Eligible applicants are institutions of higher educations, hospitals, other non-profits, commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, international organizations, and state, local and Indian tribal governments. Federal agencies or institutions are not eligible to receive federal assistance under this notice, but may be project partners. Note: Federal agencies or institutions who are project partners must demonstrate that they have legal authority to receive funds from another Federal agency in excess of their appropriation. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

Authority

Statutory Authority for these programs is provided under 16 U.S.C. 1456c (Technical Assistance).

General Information For All Programs

Indirect Costs

The total dollar amount of the indirect costs proposed in an application under any of these programs must not exceed the current indirect cost rate negotiated and approved by the applicant's cognizant federal agency, prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less. If a rate has not been established, one will be negotiated by the Department of Commerce (DOC) Office of Inspector General.

Federal Policies and Procedures

Recipients and sub-recipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal assistance awards.

Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management, honesty, or financial integrity.

Past Performance

Unsatisfactory performance under prior federal awards may result in an application not being considered for funding.

Pre-Award Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs should an award not be made or funded at a level less than requested.

No Obligation for Future Funding

If the application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

Delinquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(i) The delinquent account is paid in full,

(ii) A negotiated repayment schedule is established and at least one payment is received, or

(iii) Other arrangements satisfactory to DOC are made.

Primary Applicant Certifications

All organizations or individuals preparing grant applications must submit a completed Form CD-511 ''Certifications Regarding Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and explanations are hereby provided:

Non-Procurement Debarment and Suspension

Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug-Free Workplace

Grantees (as defined at 15 CFR 26.605) are subject to 15 CFR part 26, subpart F, ''Government-wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed here applies.

Anti-Lobbying

Persons (as defined at 15 CFR 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to application/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000.

Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF-LLL form, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, Appendix B.

Lower-Tier Certifications

Recipients shall require applicants/bidders for sub-grants, contracts, subcontracts, or other lower-tier-covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF-LLL, ''Disclosure of Lobbying Activities.'' Form CD-512 is intended for the use of recipients and should not be transmitted to DOC. SF-LLL submitted by any tier recipient or sub-recipient should be submitted to DOC in accordance with the instructions contained in the aware document.

False Statements

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Intergovernmental Review

Applications under this program are subject to Executive Order 12372,''Intergovernmental Review of Federal Programs.''

Buy American-made Equipment or Products

Applicants are hereby notified that they will be encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for this notice concerning grants, cooperative agreements, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. This notice contains a collection-of-information requirements subject to the PRA. The collection-of-information has been approved by OMB, OMB Control Numbers 0348-0041, 0348-0042, 0348-0043, 0348-0044, 0348-0040, 0348-0046, and 0605-0001.

Dated: October 23, 2000.

Margaret A. Davidson,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 00–27816 Filed 10–27–00; 8:45 am]

BILLING CODE: 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102400A]

Development of a Code of Conduct for Responsible Aquaculture in the United States Exclusive Economic Zone; Additional Public Workshops

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

ACTION: Notice of public workshops.

SUMMARY: NMFS publishes information regarding stakeholder input to the development of a Code of Conduct for Responsible Aquaculture in the U.S. Exclusive Economic Zone (Code of Conduct). It is the purpose of such a Code of Conduct to provide general guidance for siting and operating aquaculture facilities in the Exclusive Economic Zone (EEZ) seaward of coastal state boundaries and authorities. NMFS held stakeholder workshops in Seattle, WA, Danvers, MA and Galveston, TX in September, 2000 to gather information for use in developing a draft Code of Conduct. Based on stakeholder interest in other geographic regions, NMFS is conducting three additional workshops. The workshops are open to the public.

DATES: The meeting dates are:

1. Honolulu, HI, November 14, 2000, 10 a.m. - 3 p.m.

2. Miami, FL, November 16, 2000, 10 a.m. - 3 p.m.

3. Silver Spring, MD; November 20, 2000, 9 a.m. - 12:30 p.m.

ADDRESSES: The workshop locations are:

1. Honolulu: University of Hawaii, Hawaii Imin International Conference Center, Jefferson Hall, Pacific Room, East West Center Road, Honolulu, HI 96822.

2. Miami: Rosenstiel School Auditorium, 4600 Rickenbacker Causeway, Miami, FL 33149.

3. Silver Spring: NOAA Auditorium, 1301 East West Highway, Silver Spring, MD. 20910.

FOR FURTHER INFORMATION CONTACT: Edwin Rhodes at (301) 713-2334 or Colin Nash at (360) 871 8309. For specific workshop information contact: Honolulu, HI, Wende Goo (808) 983 5303; Miami, FL, Daniel Benetti (305) 361 4889 or Kim Newlin (305) 361 4464; Silver Spring, MD, Edwin Rhodes, (301) 713 2334.

SUPPLEMENTARY INFORMATION:

Background

NMFS has Federal responsibility for the living marine resources of the United States. Under authorities of the Magnuson-Stevens Fishery Conservation and Management Act, NMFS has responsibility for federally managed species and for the conservation and enhancement of essential fish habitat in the zone seaward of coastal state boundaries to the 200 nautical mile limit of the EEZ. NMFS has additional responsibilities for threatened and endangered species and for marine mammals under authorities of the Endangered Species Act and the Marine Mammal Protection Act. NMFS anticipates increasing aquaculture activity in the EEZ. In order to provide guidance to potential users of the U.S. EEZ for aquaculture, NMFS, with broad stakeholder input, will produce a Code of Conduct for Responsible Aquaculture in the United States Exclusive Economic Zone. It is the purpose of such a Code of Conduct to provide general guidance to the aquaculture industry for siting and operating aquaculture facilities in this zone, and to provide NMFS with a framework that can be used to ensure a more consistent review of aquaculture projects that require agency actions. NMFS may also use the Code of Conduct as a starting point for the development of regulatory standards in the future.

The United States was an active participant in the 1993-1995 consultations that led to the adoption by the Food and Agriculture Organization of the United Nations (FAO) of the Code of Conduct for Responsible Fisheries (FAO Code). While the FAO Code is a voluntary and non-binding instrument, the United States has consistently supported its usefulness as an internationally agreed upon statement of principles that should govern the policies of FAO members in all sectors of the fishing industry, including aquaculture, which is addressed in Article 9 of the FAO Code. Although the Code of Conduct being developed for the U.S. EEZ does not have to follow the FAO model, the FAO Code is an important reference instrument. A copy of the aquaculture section (Article 9) of the FAO Code can be obtained from the contact persons listed here, and can be found on the internet at http://www.fao.org/fi/agreem/codecond/ficonde.asp

NMFS will develop the Code of Conduct in steps. The first step is to get stakeholder input through workshops to assist in Code of Conduct development. NMFS, in consultation with other Federal agencies with authorities in Federal waters, will consider this stakeholder input in producing a draft Code of Conduct, which will be made available for public comment through a Federal Register notice early in 2001. Public comments will be addressed in formulating a final Code of Conduct, which will be published in the Federal Register before January, 2002.

Regional Workshops

NMFS held three workshops in September, 2000, and will hold three more regional workshops to receive additional stakeholder input for development of the Code of Conduct. NMFS seeks input on the scope, content, specificity and use of a Code of Conduct that can be used to help guide aquaculture development in the EEZ. Areas for discussion include, but are not limited to, species choices, siting, transboundary considerations, design and construction of facilities, disease prevention and control, feeds and feeding protocols, effluents and pollution,interactions with wild species and protected resources, general operations, stock enhancement, use conflict resolution, and on-shore impacts. The workshops are open to all interested persons.

Special Accommodations

The workshops will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Edwin Rhodes at least 5 days prior to the meeting date.

Dated: October 24, 2000.

Clarence G. Pautzke,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

FR Doc. 00–27824 File 10–27–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102400D]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public meetings.

DATES: The meetings will be held on November 13-16, 2000.

ADDRESSES: These meetings will be held at the Isle of Capri Casino Hotel, 151 Beach Boulevard, Biloxi, MS; telephone: 228-435-5400.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 228-2815.

SUPPLEMENTARY INFORMATION:

Council

November 15

8:30 a.m.—Convene.

9 a.m. - 12 noon—Receive public testimony on a proposed amendment to the Stone Crab Fishery Management Plan (FMP), a proposed amendment to the Shrimp FMP, and a proposed Dolphin/Wahoo FMP. Persons who will testify must turn in a registration card before the start of the testimony period on Wednesday.

1:30 p.m. - 4 p.m.-Continue public testimony if needed.

4 p.m. - 5 p.m.—Receive a report of the Shrimp Management Committee.

5 p.m. - 5:30 p.m.—Receive a presentation on the Invasion of Australian Spotted Jellyfish.

4:30 p.m. - 4:45 p.m.—Receive a report of the Stone Crab Management Committee.

November 16

8:30 a.m. - 9:30 a.m.—Receive a briefing on new travel procedures for Council members.

9:30 a.m. - 11:30 a.m.—Receive a report of the Reef Fish Management Committee.

11:30 a.m. - 12 noon—Receive a report of the Mackerel Management Committee.

1:30 p.m. - 2:30 p.m.—Receive a report of the Joint Reef Fish and Mackerel Management Committees.

2:30 p.m. - 3 p.m.—Receive a report of the Habitat Protection Committee.

3 p.m. - 3:15 p.m.—Receive a report of the Administrative Policy Committee.

3:15 p.m. - 3:30 p.m.—Receive a report of the Stone Crab Management Committee.

3:30 p.m. - 3:45 p.m.—Receive the South Atlantic Fishery Management Council Liaison report.

3:45 p.m. - 4 p.m.—Receive the International Commission for the Conservation of Atlantic Tunas Advisory Committee Report.

4 p.m. - 4:15 p.m.—Receive enforcement reports.

4:15 p.m. - 4:30 p.m.—Receive the NMFS Regional Administrator's Report.

4:30 p.m. - 4:45 p.m.—Receive Director's Reports.

4:45 p.m. - 5 p.m.—Other Business.

November 13

1 p.m. - 3:30 p.m.—Convene the Shrimp Management Committee to discuss the proposed Shrimp Amendment 11 and develop recommendations for final action by the full Council on Wednesday afternoon. Shrimp Amendment 11 contains alternatives for requiring shrimp vessel permits, shrimp vessel registration, operator permits, and prohibiting trap gear in the royal red shrimp fishery of the exclusive economic zone.

3 :30 p.m. - 4 p.m.—Convene the Stone Crab Management Committee to discuss the proposed Stone Crab Amendment 7 and will develop recommendations for final action by the full Council on Thursday afternoon. Stone Crab Amendment 7 proposes to create a Federal trap certificate program for the commercial stone crab fishery in Federal waters off Florida. This program will be similar to the trap certificate program adopted by the state of Florida.

4 p.m. - 5:30 p.m.—Convene the Mackerel Management Committee to discuss the proposed Dolphin/Wahoo FMP and develop recommendations for final action by the full Council on Wednesday afternoon. They will also hear scientific presentations on cobia. The Dolphin/Wahoo FMP has been prepared by the South Atlantic, Gulf, and Caribbean fishery management councils. The first 10 actions, with options, of the Dolphin/Wahoo FMP contain measures that are applicable to the dolphin and wahoo stocks in the jurisdictions of all 3 councils. These include measures to: define the management units; address dealer, vessel, and operator permits; consider data reporting requirements; identify estimates of maximum sustainable yield, optimum yield, and overfishing/overfished criteria; and, framework options to enable seasonal adjustments to the management structure. Other actions, with options, are separately applicable to each Council's area of jurisdiction, and include actions that may be implemented through the framework procedures, e.g. minimum size limits, bag limits, trip limits, and allocations, among others.

November 14

8:30 a.m. - 12:30 a.m.—Convene the Reef Fish Management Committee to receive the Reef Fish Stock Assessment Panel's and the Socioeconomic Panel's recommendations on grouper complex rebuilding scenarios, and to receive a report from NMFS on red snapper restoration scenarios. This discussion will include management strategies, estimates of trawl bycatch, alternative assessment scenarios, and the management implications.

1:30 p.m. - 2 p.m.—Convene the Joint Reef Fish and Mackerel Management Committees to consider further Council action on a Draft Amendment for Charter Vessel Permit Moratorium for public hearings. The draft amendment proposes to put a moratorium on the issuance of additional permits for charter vessels to fish for reef fish or coastal migratory pelagics in federal waters of the Gulf of Mexico. The amendment will make the charter vessel permits transferable.

2 p.m. - 4 p.m.—Convene the Habitat Protection Committee to hear a review of the Turkey Creek Development Project, a review of floating production storage and offloading systems, an update on an Essential Fish Habitat lawsuit, receive recommendations from the Texas Habitat Protection Advisory Panel meeting, and discuss draft council wetland and submerged aquatic vegetation policies.

4 p.m. - 5:30 p.m.—Convene the Administrative Policy Committee to discuss amendments to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Act) and amendments to the Council's Administrative Handbook. They will develop recommendations for comments to be heard by full Council on Thursday afternoon.

Although non-emergency issues not contained in the agenda may come before the Council for discussion, in accordance with the Magnuson Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson Act, provided the public has been notified of the Council's intent to take final action to address the emergency. A copy of the Committee schedule and agenda can be obtained by calling (813) 228-2815.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by November 6, 2000.

Dated: October 25, 2000.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–27818 Filed 10–27–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102400F]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee and Social Science Advisory Committee (SSAC) in November, 2000 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held on Monday, November 13, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Boston, MA and Wakefield, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978)465–0492. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Monday, November 13, 2000, 9:30 a.m.—Research Steering Committee Meeting

Location: Sheraton Colonial Hotel, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300.

Continued work on the development of a collaborative research program to address the next round of funds appropriated by Congress for 2001.

Monday, November 13, 2000 at 10:00 a.m.—Social Sciences Advisory Committee (SSAC) Meeting

Location: Coast Guard Building, 427 Commercial Street, Boston, MA 02210; telephone: (617) 223–3187.

The SSAC will finalize comments on the Scallop Stock Assessment and Fishery Evaluation Report, discuss its priorities for the next year and develop plans for a social sciences peer review workshop.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: October 25, 2000.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–27821 Filed 10–27–00; 8:45 am]

BILLING CODE: 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102000B]

Endangered Species; Permits

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

ACTION: Receipt of an application for a enhancement permit 1251; Issuance of scientific research/enhancement permit 1128, scientific research permit 1149; Issuance of modified permits 1011 and 1144; Issuance of amended permit 1133.

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement: NMFS has received a enhancement permit application from Mr. Steven Fields, of Magnolia Springs State Park - GADNR (1251); NMFS has issued a scientific research/enhancement permit to the Oregon Department of Fish and Wildlife at La Grande, OR (ODFW) (1128); NMFS has issued a permit to the Columbia River Inter-Tribal Fish Commission at Portland, OR (CRITFC) (1149) and permit modifications to the Oregon Department of Fish and Wildlife at Portland, OR (ODFW) (1011) and Bruce D. Peery, Michael J. Bresette and Jonathan C. Gorham (1144); NMFS has issued an amended permit 1133 to Dr. Andre M. Landry, Jr., of the Department of Marine Biology, Texas A&M University at Galveston (TAMUG) (1133).

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number no later than 5 p.m. eastern standard time on November 29, 2000.

ADDRESSES: Written comments on any of the new applications or modification requests should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application or modification request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review in the indicated office, by appointment:

For application 1251; permits 1133 and 1144: Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD, 20910 301-713-1401.

For permits 1128, 1149, 1011: Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232-2737 (ph: 503-230-5400, fax: 503-230-5435).

Documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3226 (301-713-1401).

FOR FURTHER INFORMATION CONTACT: For application 1251, permits 1133 and 1144: Terri Jordan, Silver Spring, MD (ph: 301-713-1401, fax: 301-713-0376, e-mail: Terri.Jordan@noaa.gov).

For permits 1128, 1149, 1011: Robert Koch, Portland, OR (ph: 503-230-5424, fax: 503-230-5435, e-mail: Robert.Koch@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222-226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species and evolutionarily significant units (ESU's) are covered in this notice:

Fish

Sockeye salmon (*Oncorhynchus nerka*): endangered Snake River (SnR).

Chinook salmon (*O. tshawytscha*): threatened SnR spring/summer, threatened SnR fall.

Steelhead (*O. mykiss*): threatened SnR.

Shortnose sturgeon (*Acipenser brevirostrum*).

Turtles

Endangered Green turtle (*Chelonia mydas*)

Endangered Hawksbill turtle (*Eretmochelys imbricata*)

Endangered Kemp's ridley turtle (*Lepidochelys kempii*)

Threatened Loggerhead turtle (*Caretta caretta*)

New Applications Received

Application 1251: The applicant requests a 5-year permit to continue to maintain two (2) adult shortnose sturgeon in captivity for enhancement purposes. The applicant currently possesses two adult shortnose sturgeon received from the U.S. Fish and Wildlife Service hatchery at Warm Springs, Georgia in November 1996 under scientific research permit 986. Permit 986 will expire on December 31, 2000, and the permit holder does not wish to renew the enhancement aspects of the permit. As a direct result, Magnolia Springs State Park - GADNR is applying for an individual permit to continue maintenance of these fish.

Permits, Modifications and Amendments Issued

Permit 1128: Notice was published on March 24, 1998, (63 FR 14069) that ODFW applied for a scientific research/enhancement permit. Permit 1128 was issued to ODFW on May 22, 2000, and a subsequent permit amendment was issued on September 21, 2000. Permit 1128 authorizes ODFW annual takes of adult and juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon associated with a supplementation program at the Imnaha River and Lookingglass Creek Hatcheries. The objectives of ODFW's program are to: (1) Restore natural populations of chinook salmon in the basin to ESA delisting levels, (2) reestablish traditional tribal and recreational fisheries for chinook salmon, (3) maintain the genetic and life history characteristics of the endemic wild population while pursuing mitigation goals and management objectives, and (4) operate the hatchery program to ensure that the genetic and life history characteristics of the hatchery fish mimic the wild fish. ODFW will retain a percentage of the ESA-listed adult salmon that return to the Imnaha River weir each year for hatchery broodstock and release all of the ESA-listed adult salmon not retained for broodstock above the weir to spawn naturally. In a given year, if more hatchery-origin adult salmon are available than are needed to release above the weir or to keep for broodstock, ODFW will transport the excess hatchery-origin adults to Big Sheep and/or Lick Creeks and outplant them for natural spawning. ESA-listed adult salmon retained for broodstock will be transported to the hatcheries and spawned. The resulting progeny will be reared in the hatcheries, tagged with coded-wires and passive integrated transponders, and released when ready to outmigrate to the ocean. Annual incidental takes of endangered SnR sockeye salmon, threatened SnR fall chinook salmon, and threatened SnR steelhead associated with ODFW's hatchery operations and juvenile fish releases from ODFW's hatchery supplementation program are also authorized. The purpose of the September 21, 2000, amendment of permit 1128 was to correct some inadvertent clerical errors. Permit 1128 expires on December 31, 2003.

Permit 1149: Notice was published on April 23, 1998 (63 FR 20169), that CRITFC applied for a scientific research/enhancement permit (1149). Permit 1149 was issued to CRITFC on October 13, 2000. Permit 1149 authorizes the Nez Perce Tribe (NPT), a member tribe of CRITFC, annual takes of adult and juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon associated with its contribution to a hatchery supplementation program for the Lostine River population of chinook salmon. The supplementation program is a component of a coordinated enhancement effort initiated by ODFW in 1995 with a captive broodstock program for three Grande Ronde River Basin populations: Catherine Creek, upper Grande Ronde River, and Lostine River. NPT's objectives are to: (1) collect adult chinook salmon from the Lostine River to be used as broodstock to produce smolts through conventional hatchery production for acclimated releases back into the Lostine River; (2) provide monitoring and evaluation of returning adults from captive brood, conventional, and natural production; and (3) provide acclimation release facilities for captive brood smolts produced under the authority of ODFW's permit 1011 (see below). ESA-listed adult salmon that return to the Lostine River each year will be captured by NPT at a weir, tagged and/or marked, and sampled for tissues and scales. NPT will retain a percentage of the ESA-listed adult salmon from natural production or conventional hatchery production that return to the weir each year for hatchery broodstock. The ESA-listed adult salmon not retained for broodstock, including all adult salmon from captive brood production, will be released above the weir to spawn naturally. ESA-listed adult salmon retained for broodstock will be transported to ODFW's Lookingglass Hatchery and spawned under the authority of ODFW's permit 1011. The resulting progeny will be reared in the hatchery, tagged with coded-wires and passive integrated transponders, and transferred to NPT for release when they are ready to outmigrate to the ocean. Annual incidental takes of SnR sockeye salmon, SnR fall chinook salmon, and SnR steelhead associated with NPT's juvenile fish releases in the Lostine River are also authorized. Permit 1149 expires on December 31, 2002.

Permit 1011: Notice was published on April 23, 1998 (63 FR 20169), that ODFW applied for modification 2 to scientific research/enhancement permit 1011. Modification 2 to permit 1011 was issued to ODFW on October 13, 2000. Permit 1011 authorizes ODFW annual takes of adult and juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon associated with a captive broodstock program for the Catherine Creek, upper Grande Ronde River, and Lostine River populations of chinook salmon. For modification 2, ODFW is authorized to use adult weirs to capture returning adults from Catherine Creek and the upper Grande Ronde River for broodstock to continue the hatchery supplementation program that was initiated by ODFW in 1997. NPT is a cooperator with ODFW's enhancement efforts and will be primarily responsible for operating adult trapping and smolt acclimation facilities at the Lostine River under the authority of permit 1149 (see above). The ESA-listed adult salmon not retained for broodstock, including all adult salmon from captive brood production, will be tagged and/or marked, sampled for tissues and scales, and released above the weirs to spawn naturally. ESA-listed adult salmon retained for broodstock will be transported to ODFW's Lookingglass Hatchery where they will be spawned, the resulting eggs incubated, and the juveniles reared. The resulting smolts will be transported and released in their respective stream of origin when they are ready to outmigrate to the ocean. Annual incidental takes of SnR sockeye salmon, SnR fall chinook salmon, and SnR steelhead associated with ODFW's hatchery operations and juvenile fish releases are authorized. The Confederated Tribes of the Umatilla Indian Reservation, a member of CRITFC, is authorized to act as an agent

of ODFW under permit 1011. Permit 1011, which was due to expire on December 31, 2000, has been extended for 2 years and is now due to expire on December 31, 2002. Modification 2 is valid for the duration of the permit.

Permit 1133: Andre M. Landry currently possesses a 5-year scientific research permit to take listed sea turtles for the purpose of conducting studies on population status and recovery potential, habitat preference, movement and migration, foraging patterns, and impact of man's activities such as commercial and recreational fishing, dredging and habitat alteration/pollution. Dr. Landry is currently authorized to take listed sea turtles annually from locations within the Western Gulf of Mexico, through the use of entanglement nets.

Due to a recent net mortality, NMFS has amended permit 1133 to add special conditions to reduce the likelihood of additional mortalities associated with research activities in the Gulf of Mexico. The amendment also clarifies take levels from the original permit and updates regulatory citations. Amendment 1 to Permit 1133 was issued on October 19, 2000, authorizing the continued take of listed species. Permit 1133 expires January 31, 2003.

Permit 1144: Notice was published on June 21, 2000 (65 FR 38509), that Bruce D. Peery, Michael J. Bresette and Jonathan C. Gorham applied for a modification to 1144. The applicants possess a 2-year scientific research permit to take up to 100 green (*Chelonia mydas*), five Kemp's ridley (*Lepidochelys kempii*) and 25 loggerhead (*Caretta caretta*) turtles annually in large mesh tangle nets for the purposes of stock assessment to characterize the sea turtles that utilize the southern Indian River Lagoon System, Florida. Captured turtles will be weighed, photographed, measured, tagged, and released. Modification #2 extends the expiration date of permit #1144 to July 31, 2003.

Dated: October 24, 2000.

Margaret C. Lorenz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–27823 Filed 10–27–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Public Meeting on Third Generation Wireless Systems Deployment in the United States

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Telecommunications and Information Administration (NTIA) will host a series of public meetings to discuss the deployment of third generation (3G) wireless systems in the United States. The topic of the first meeting will be the plan to select spectrum for third generation wireless systems released by Secretary of Commerce Norman Y. Mineta in accordance with the Executive Memorandum signed by President Clinton on October 13, 2000.

DATES: The first meeting will be held from 2 p.m. to 4 p.m., Thursday, November 2, 2000.

ADDRESSES: The first meeting with be held at the U.S. Department of Commerce, Room 4830, 1401 Constitution Avenue, NW., Washington, DC. The meeting will be open to the public. For updates on this meeting or future meetings, please see NTIA's homepage at <http://www.ntia.doc.gov>.

FOR FURTHER INFORMATION: For further information, please contact Derrick Owens, Office of the Assistant Secretary for Communications and Information, NTIA, telephone: (202) 482–1920; or electronic mail: <dowens@ntia.doc.gov>.

Media enquiries should be directed to the Office of Public Affairs, NTIA, at (202) 482–7002.

SUPPLEMENTARY INFORMATION: On October 13, 2000, President Clinton signed an Executive Memorandum directing federal agencies to work with the Federal Communications Commission (FCC) and the private sector to identify radio spectrum needed for the next generation or so-called ''third generation'' of wireless communications technology. To meet this goal, the President directed the Secretary of Commerce, among other things, to develop a plan by October 20, 2000, in cooperation with the FCC, the Department of Defense, and other Federal agencies, setting forth the necessary steps that will result in licensing of third generation wireless systems by September 30, 2002. The President also directed the Secretary of Commerce to work cooperatively with the FCC to lead a government-industry effort, through a series of regular public meetings and workshops, to develop recommendations and plans for identifying spectrum for third generation wireless systems consistent with the basic principles adopted at the World Radio Conference 2000.

On October 20, 2000, Secretary of Commerce Norman Y. Mineta released the required plan (3G Plan) and announced that he had asked the Assistant Secretary for Communication and Information, Gregory L. Rohde, to host along with the FCC, a public meeting of key Federal agencies and interested industry representatives to discuss the plan. The Secretary also announced that NTIA will arrange further meetings to brief and discuss the planned interim and final reports, industry plans for third generation wireless services, and other issues surrounding the selection of spectrum. The President's Executive Memorandum, the Secretary's Statement, and the 3G Plan are available on NTIA's homepage at <http://www.ntia.doc.gov>.

Public Participation

The meeting will be open to the public and is physically accessible to people with disabilities. To facilitate entry into the Department of Commerce building, please have a photo identification and/or a U.S. Government building pass, if applicable. Any member of the public wishing to attend and requiring special services, such as sign language interpretation or other ancillary aids, should contact Derrick Owens at least three (3) days prior to the meeting at telephone: (202) 482–1920, or electronic mail: <dowens@ntia.doc.gov>.

Kathy D. Smith,

Chief Counsel.

[FR Doc. 00–27825 Filed 10–27–00; 8:45 am]

BILLING CODE 3510–60–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Meeting Act

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: 65 FR 65843.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 1 p.m., Monday, October 30, 2000.

CHANGES IN THE MEETING: The open meeting previously scheduled for 1 p.m., Monday, October 30, 2000 has

been postponed until 1 p.m., Wednesday, November 1, 2000.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–27965 Filed 10–26–00; 3:58 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DOD.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 29, 2000.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness), ODUSD(PI)/Defense Human Resources Activity, ATTN: Ms. Sheila Ford, 4040 Fairfax Boulevard, Suite 200, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call at (703) 696–0404.

Title, Associated Form, and OMB Control Number: Application for Department of Defense Common Access Card—DEERS Enrollment, DD Form 1172–2, OMB Number 0704–0415.

Needs and Uses: This information collection is needed to obtain the necessary data to establish eligibility for the DoD Common Access Card for those individuals not pre-enrolled in the DEERS, and to maintain a centralized database of eligible individuals. This information is used to establish eligibility for the DoD Common Access Card for individuals either employed by or associated with the Department of Defense; is used to control access to DoD facilities and systems; and it provides a source of data for demographic reports and mobilization dependent support.

Affected Public: Individuals.

Annual Burden Hours: 100,000.

Number of Respondents: 300,000.

Responses per Respondent: 1.

Average Burden per Response: 20 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The DD Form 1172–2, Application for Department of Defense Common Access Card—DEERS Enrollment, the form associated with this information collection, issued to collect relevant data (*e.g.* name, identifying information, employment status, citizenship) from the respondent. The data collected established eligibility for the appropriate DoD Common Access Card for those individuals not pre-enrolled in the Defense Enrollment Eligibility Reporting System (DEERS), and enables their enrollment in the centralized database of eligible individuals.

The Department is in the process of taking all requisite measures to enhance physical and information security and apply prudent countermeasures for all potential vulnerabilities focusing security actions to address the changes in today's threat environment. The Deputy Secretary of Defense August 12, 2000 memorandum, Subject: Department of Defense (DoD) Public Key Infrastructure (PKI), directs use of and common, integrated, interoperable DoD PKI to enable security services at multiple levels of assurance. PKI is a key and certificate management infrastructure designed to support confidentiality, integrity, availability, authorization, and access control in computer networks. This data collection is a step in that direction by prohibiting access to the Department's systems to those not authorized. Public Law 106–65, Section 373 directs the Department to develop and implement a Smart Card program for the Department of Defense. The Deputy Secretary of Defense November 10, 1999 memorandum, Subject: Smart Card Adoption and Implementation, directs the Department to implement smart card technology as a Department-wide Common Access Card (CAC) that shall be the standard ID card for active duty military personnel (to include the Selected Reserve), DoD civilian employees and eligible contractor personnel, be the principal card used to enable physical access to buildings and controlled spaces, and will be sued to gain access to the Department's computer networks and systems. The Deputy Secretary directs the CAC shall be issued and maintained using the infrastructure provided by the Defense Enrollment Eligibility Reporting System and the Realtime Automated Personnel Identification System and that the initial implementation of the CAC is to be at multiple locations no later than December 30, 2000.

Individuals included in this information collection are: eligible contractor employees (*e.g.,* contractor employees who need access to DoD systems, or facilities on a daily or regular basis as determined by the local command) and eligible foreign nationals (*e.g.,* foreign nationals who need access to DoD systems or facilities on a regular basis as determined by the local command), as well as other eligible individuals outside DoD.

Dated: October 24, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–27757 Filed 10–27–00; 8:45 am]

BILLING CODE 5001–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Form, and OMB Number: Personal Check Cashing Agreement; DD Form 2761; OMB Number 0730–0005.

Type of Request: Revision.

Number of Respondents: 386,000.

Responses Per Respondent: 1.

Annual Responses: 386,000.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 193,000.

Needs and Uses: The information collection requirement is necessary to

meet the Department of Defense's (DoD) requirement for cashing personal checks overseas and afloat by DoD disbursing activities, as provided in 31 U.S.C. 3342. The DoD Financial Management Regulation, Volume 5, provides guidance to DoD Disbursing Officers in the performance of this information collection. This allows the DoD disbursing officer or authorized agent the authority to offset the pay without prior notification, in cases where this form has been signed subject to conditions specified within the approved procedures. The front of the form will be completed and signed by the authorized individual requesting check cashing privileges. By signing the form, the individual is freely and voluntarily consenting to the immediate collection from their current pay, without prior notice. In the event the check is dishonored, the disbursing officer will complete and certify the reverse side of the form and forward the form to the applicable payroll office for collection from the individual's current pay.

Affected Public: Individuals or Households.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: October 24, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–27759 Filed 10–27–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: TRICARE Retiree Dental Program Enrollment Application; OMB Number 0720–0015.

Type of Request: Revision

Number of Respondents: 50,000

Responses per Respondent: 1

Annual Responses: 50,000

Average Burden per Response: 15 minutes

Annual Burden Hours: 12,500

Needs and Uses: This information collection is completed by Uniformed Services members entitled to retired pay and their eligible family members who are seeking enrollment in the TRICARE Retiree Dental Program (TRDP). The information is necessary to enable the DoD-contracted third party administrator of the program to identify the program's applicants, determine their eligibility for TRDP enrollment, establish the premium payment amount, and to verity by the applicant's signature that the applicant understands the benefits and rules of the program.

Affected Public: Individuals or Households.

Frequency: On Occasion.

Respondents Obligation: Required to Obtain or Retain Benefits.

OMB Dest Officer: Ms. Allison Eydt.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eydt at the Office of Management and Budget, Desk Officer for DoD Health Affairs, Room 10235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: October 24, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–27760 Filed 10–27–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DOD.

ACTION: Notice.

In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed extension of collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received December 29, 2000.

ADDRESSES: Written comments and recommendations on the information collection should be sent to TRICARE Management Activity—Aurora, Office of Program Requirement, 16401, E. Centretech Parkway, ATTN: Graham Kolb, Aurora, CO 80011– 9043.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection, please write to the above address or call TRICARE Management Activity, Office of Program Requirements at (303) 676–3580.

Title Associated with Form, and OMB Number: Health Insurance Claim Form, UB 92, OMB Number 0720–0013.

Needs and Uses: This information collection requirement is necessary for a medical institution to claim benefits under the Defense Health Program, TRICARE, which includes the Civilian Health and Medical Program for the Uniform Services (CHAMPUS). The information collected will be used by TRICARE/CHAMPUS to determine beneficiary eligibility, other health insurance liability, certification that the beneficiary received the care, and that the provider is authorized to receive TRICARE/CHAMPUS payments. The form will we used by TRICARE/CHAMPUS and it's contractors to determine the amount of benefits to be paid to TRICARE/CHAMPUS institutional providers.

Affected Public: Business or other for-profit; not-for profit institutions.

Annual Burden Hours: 525,000.

Number of Respondents: 2,100,000 annually.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This collection instrument is for us by medical institutions filing for reimbursement with the Defense Health Program, TRICARE, which includes the Civilian Health and Medical Program of the Uniformed Services (TRICARE/CHAMPUS). TRICARE/CHAMPUS is a health benefits entitlement program for the dependent of active duty members of the Uniformed Service, and deceased sponsors, retirees and their dependents, dependents of department of transportation (Cost Guard) sponsors, and certain North Atlantic Treaty Organization, National Oceanic and Atmospheric Administration, and Public Health Service eligible beneficiaries. Use of the UB–92 (also known as the HCFA 1450) continues TRICARE/CHAMPUS commitments to use the national standard claim form for reimbursement of medical services/supplies provided by institutional providers.

Dated: October 24, 2000.

Patricia L. Topplings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–27758 Filed 10–27–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by November 6, 2000.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.,* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) Will this information be processed and used in a timely manner; (3) Is the estimate of burden accurate; (4) How might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) How might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: October 24, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Revision.

Title: Consolidated State Performance Report and State Self-Review.

Abstract: This information collection package contains two related parts: the Consolidated State Performance Report (CSPR) and the State Self-Review (SSR). The Elementary and Secondary Education Act (ESEA), in general, and its provision for submission of consolidated plans, in particular (section 14301 of the ESEA), emphasize the importance of cross-program coordination and integration of federal programs into educational activities carried out with State and local funds. States would use both instruments for reporting on activities that occur during the 1999–2000 school year and, if the ESEA, when aurthorized, does not become effective for the 2000–2001 school year, for that year as well. The proposed CSPR requests essentially the same information as in 1999–2000, in a more concise and accessible format. The proposed SSR replaces informal data collections performed by each program review team in advance of site visits to states (approximately 14 each year), now conducted as integrated program reviews of all ESEA and Goals 2000 programs. This document and the associated visits promote the Department's interests in (1) gathering essential information on how States have implemented their approval consolidated State plans and (2) identifying federal assistance to States on how to use federal funds most effectively. The State responses to the SSR will complement their responses to the CSPR by providing specific information on program implemention that is needed for an effective integrated review. When the ESEA is reauthorized the Department intends to work actively with the public to revise the content of these documents and develop an integrated information collection system that responds to the new law, uses new technologies, and better reflects how federal programs help to promote State and local reform efforts.

Additional Information: The Department of Education is requesting an emergency review of the Consolidated State Performance Report (CSPR) and the State Self-Review (SSR) by November 6, 2000. Emergency clearance is requested due to an unanticipated event. Statutory changes of Title VI resulted in a new eligible category. In addition, the Department has made improvements to their electronic collection. If normal clearance procedures were to be followed, ED would not meet its effective date of November 20, 2000, the date this collection will be available to states via Web-based electronic collection.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 53.

Burden Hours: 137,086.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department

of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov, or should be faxed to 202–708–9346.

Comments regarding burden and/or the collection activity requirements, contact Kathy Axt at her internet address Kathy_Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–27720 Filed 10–27–00; 8:45 am]

BILLING CODE 4000–01–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, November 15, 2000, 6:00 p.m.–9:00 p.m.

ADDRESSES: San Ildefonso Pueblo, Route 502.

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

Opening Activities—6:00–6:30 p.m.—Video ''Closing the Circle''
Public Comments 6:30–7:00 p.m.
Reports
Committee Reports:
Waste Management
Environmental Restoration
Monitoring and Surveillance
Community Outreach
Budget
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 9:00 a.m.–4:00 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 October 25, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–27744 Filed 10–27–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: proposed collection; comment request.

SUMMARY: The EIA is soliciting comments on the proposed new Form EIA–910, ''Monthly Natural Gas Marketer Survey.''

DATES: Comments must be filed on or before December 29, 2000. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to Roy Kass (EI–44), ATTN: Form EIA–910, Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Alternatively, Mr. Kass may be reached by telephone at 202–586–4790, by FAX at 202–586–4420 or by e-mail at roy.kass@eia.doe.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the form and instructions should be directed to Mr. Kass at the address listed above. The proposed forms and instructions are also available on the Internet at http://www.eia.doe.gov/smg/eia910.pdf.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (FEA Act) (Pub. L. 93–275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. To carry out this program, section 13(b) of the FEA Act (15 U.S.C. 772(b)) states that ''All persons owning or operating facilities or business premises who are engaged in any phase of energy supply or major energy consumption shall make available to the (Administrator) such information and periodic reports, records, documents, and other data, relating to the purposes of this Act, * * *''

Under the authorities granted, EIA conducts mandatory surveys of companies involved in energy supply and consumption. EIA's current surveys of energy suppliers include monthly surveys of petroleum product resellers and retailers, electric power supply and marketing companies, and natural gas supply companies. Collecting information from all types of energy supply companies provides EIA with information used to accurately estimate energy prices and quantities. Users of EIA's information include analysts in Federal, State, and local governments, as well as analysts in energy trade associations, energy companies, the media, consultants, and other private organizations.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) of the collections under Section 3507(a) of the Paperwork Reduction Act of 1995.

EIA's coverage of natural gas prices is declining in states with active customer choice programs as customers choose to purchase gas from marketers rather than local distribution companies. There are significant variations in energy prices paid in different states and by different economic sectors within states. Data on the price of natural gas sold by marketers to residential and commercial customers by state are required to assess the gas industry's performance and to meet the needs of EIA's data users. (See http://www.eia.doe.gov/oil_gas/natural_gas/ng2/ng2main.html for more information on EIA's natural gas data requirements.) The data requirements were developed with careful consideration of the public policy and economic issues through a series of focus groups conducted by EIA with representatives from the natural gas industry, State and Federal government representatives, and through cognitive interviews with industry representatives. The requirements have also been reconsidered based on comments received in response to an earlier **Federal Register** notice (65 FR 44524 issued on July 18, 2000) for proposed Form EIA–905, ''Monthly Natural Gas Biller Survey.''

Based upon these activities, EIA revised the scope of the survey to collect information necessary for developing accurate estimates of state-level prices paid by commercial and residential consumers of natural gas. These revisions should significantly reduce the reporting requirements and associated reporting burdens for the survey respondents, while at the same time providing the information needed by EIA and its data users.

Changes from the earlier proposed survey are: (1) Revenue and operational data will only be required from natural gas marketers, instead of the earlier proposal requesting billing and operational data from marketers, local distribution companies, and their associated billing agents, and (2) respondent burden for completing the survey has been significantly lowered by reducing the amount of data to be reported and by requesting data at the state level rather by service area within each state (or jurisdiction).

In the EIA–910 survey, initially data will only be requested for both the residential and commercial sectors in five states (Georgia, Maryland, New York, Ohio and Pennsylvania). EIA conducted additional research to ensure that the proposed survey would not duplicate reliable information that EIA could obtain through other means. Preliminary research conducted of public service/utilities commissions in the five states indicate that monthly revenue data are unavailable, except in Georgia where marketers report revenue for the residential sector only. Thus, requesting respondents to complete this form will not be a duplicate effort in these five states.

II. Current Actions

The proposed survey will collect state-level monthly data for both the residential and commercial sectors. Specifically, respondents will report the number of customers, volumes of natural gas sold (in either therms or thousand cubic feet), and revenues. The data will be collected in states with active customer choice programs. Respondents will be provided with options for reporting by the submission of paper forms and electronic reporting. In the first year, data will be collected only for Georgia, Maryland, New York, Ohio and Pennsylvania. The survey may be expanded in later years to require reporting for additional states as participation in customer choice programs rises and as EIA identifies increasing coverage problems in its natural gas price data.

Information collected in the proposed EIA–910 will be treated as confidential and will not be disclosed to the public to the extent permitted by law that the information satisfies the criteria for exemption in the Freedom of Information Act (FOIA), 5 U.S.C. 552, the DOE regulations 10 CFR 1004.11, implementing the FOIA, and the Trade Secrets Act, 18 U.S.C. 1905. This is the same treatment given to confidential data collected in other EIA surveys of energy companies.

The data collected from marketers who sell natural gas to residential and commercial customers will be compiled and incorporated into EIA's monthly and annual natural gas publications. The data will also be used in EIA's modeling and analytical efforts, and to answer questions from Federal policymakers, Congress, and the general public. The data are not intended to be collected for regulatory purposes and no rulemaking is involved.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent to the Request for Information

A. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

B. Can the information be submitted by the due date?

C. Initially, it is expected that potential survey respondents will require 40 hours to prepare for this new survey. After that, reporting burden is estimated to average 2 hours per month for each state for which a marketer reports. This is similar to the burden estimates for other energy supply monthly surveys that EIA conducts. EIA expects that all information needed for reporting should be part of the normal business records of the potential respondents. The estimated burden includes the total time necessary to provide the requested information. In your opinion, how accurate are the burden estimates?

D. EIA estimates that the only cost to a respondent is for the time it will take to prepare for and complete the survey. Will a respondent incur any other start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

E. What additional actions could be taken to minimize the burden of this collection of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

F. Does any other Federal, State, or local agency collect similar information

that would be useful for developing the accurate and independent natural gas data that would be available from the proposed survey? If so, specify the agency, the data element(s), the methods of collection, and the name and phone number of someone that EIA may contact for additional information.

As a Potential User of the Information to be Collected

A. Is the information useful at the levels of detail to be collected?

B. For what purpose(s) would the information be used? Be specific.

C. Are there alternate sources for the information and are they useful? If so, please specify the sources and their weaknesses and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. The comments also will become a matter of public record.

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC, October 23, 2000.

Stanley R. Freedman,

Acting Director, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 00–27743 Filed 10–27–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–173–000]

Arizona Public Service Company; Notice of Filing

October 25, 2000.

Take notice that on October 20, 2000, Arizona Public Service Company (APS) tendered for filing a revision to its Open Access Transmission Tariff (OATT) in order to include the Protocols Manual of the Arizona Independent Scheduling Administrator Association (AISAA) under Part IV of its OATT.

APS requests an effective date of November 1, 2000.

A copy of this filing has been served on the Arizona Corporation Commission, AISAA, Salt River Project Merchant Group and Pinnacle West Marketing & Trading. Copies of the filing can be viewed on APS' OASIS website, www.azpsoasis.com.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or November 8, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 00–27776 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–35–000]

Avista Corporation, et al.; Notice of Filing

October 24, 2000.

Take notice that on October 23, 2000, Avista Corporation, the Bonneville Power Administration, Idaho Power Company, The Montana Power Company, Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc. and Sierra Pacific Power Company (collectively, the filing utilities) filed a ''Supplemental Compliance Filing and Request for Declaratory Order Pursuant to Order 2000'' at the Federal Energy Regulatory Commission (Commission) under the Commission's Order 2000 and in accordance with 18 CFR 385.207(a)(2). Among other things, this filing describes the filing utilities' proposal to form a regional transmission organization (referred to as RTO West) that complies with the requirements of the Commission's Order 2000. The filing also requests an expedited declaratory order from the Commission that certain aspects of the proposal, including the proposed governance documents and the scope and configuration of RTO West, are in accordance with applicable requirements under Order 2000.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, 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 and protests should be filed on or before November 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginninng November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 00–27767 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–945–001]

Central Power and Light Company; Notice of Filing

October 24, 2000.

Take notice that on October 13, 2000, Central Power and Light Company (CPL) submitted for filing Facility Schedule No. 3 to the November 29, 1999 Interconnection Agreement between CPL and Sharyland Utilities, L.P. (Sharyland), establishing a new point of interconnection between the Sharyland and CPL systems.

CPL requests that the amendment to the Interconnection Agreement be accepted to become effective as of August 4, 2000. Accordingly, CPL requests waiver of the Commission's notice requirements.

CPL states that a copy of the filing was served on Sharyland and the Public Utility Commission of Texas.

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 and protests should be filed on or November 3, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27771 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3717–001]

Mirabito Gas & Electric, Inc.; Notice of Filing

October 25, 2000.

Take notice that on October 18, 2000, Mirabito Gas & Electric, Inc., tendered for filing an amendment to its Petition for Acceptance of Initial Rate Schedule, Waivers and Blanket Authority filed with the Commission on September 19, 2000, in the above-referenced Docket.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or November 8, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 00–27778 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–15–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

October 24, 2000.

Take notice that on October 18, 2000, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP01–15–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to install a new delivery point in Cuming County, Nebraska in order to accommodate interruptible natural gas deliveries to West Point Dairy Products, Inc. (West Point Dairy) under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Northern states that West Point Dairy is currently served by UtiliCorp United Inc. (UCU), a local distribution company. Northern states that pursuant to Section 284.106 of the Commission's Regulations, Northern provided notice to UCU and the Nebraska Public Service Commission by sending a copy of the application, via FedX over-night delivery, on the same date that the application was filed with the Commission.

Northern states that the delivery point will consist of a side valve and tap in Section 26, Township 22 North, Range 6 East in Cuming County, Nebraska. Northern states that the facilities will be capable of delivering up to 200 MMbtu per day to West Point Dairy and estimates total annual deliveries of 52,000 MMbtu. Northern estimates that the delivery point will cost $7,000 and that West Point Dairy will reimburse Northern for the construction costs.

Northern states that the deliveries to West Point Dairy will be made pursuant to Northern's currently effective throughput service agreement and that the deliveries to West Point will not exceed the total volumes authorized prior to the request. Further, Northern asserts that it has sufficient capacity to accommodate the West Point Dairy volume without detriment or disadvantage to Northern's other customers.

Any questions regarding the application should be directed to Keith L. Petersen, Director, Certificates and Reporting, Northern Natural Gas Company, P.O. Box 3330, Omaha, Nebraska 68103–0330, at (402) 398–7421, FAX: (402) 398–7592, and e-mail: kpetersen@enron.com.

Any person or the Commission's staff may, within 45 day after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act. Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 00–27775 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER00–1534–001, ER00–1535–001]

Ocean State Power and Ocean State Power II; Notice of Filing

October 24, 2000.

Take notice that on October 16, 2000, Ocean States Power and Ocean State Power II, (Ocean State), tendered for filing its Refund Compliance Report in the above referenced dockets.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426,in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before November 6, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27773 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 309–036]

Reliant Energy Mid-Atlantic Power Holdings, LLC; Notice Establishing Procedures for Relicensing and a Deadline For Submission Of Final Amendments

October 24, 2000.

The license for the Piney Project No 309, located on the Clarion River in Clarion County, Pennsylvania, will expire on October 12, 2002. On October 11, 2000, an application for new license was filed. The following is an approximate schedule and procedures that will be followed in processing the application:

Date	Action
December 31, 2000	Commission notifies applicant that its application has been accepted and specifies the need for additional information and due date.
January 15, 2001	Commission issues public notice of the accepted application establishing dates for filing motions to intervene and protests.
March 15, 2001	Commission's deadline for the applicant for filing a final amendment, if any, to its application.
June 15, 2001	Commission notifies all parties and agencies that the application is ready for environmental analysis.

Upon receipt of any additional information and the information filed in response to the public notice of the acceptance of the application, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to William Guey-Lee at (202) 219–2808, or email at: william.guey-lee@ferc.fed.us.

David P. Boergers,

Secretary.

[FR Doc. 00–27774 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3382–001]

Rochester Gas and Electric Corporation; Notice of Filing

October 24, 2000.

Take notice that on October 13, 2000, Rochester Gas and Electric Corporation (RG&E), tendered for filing in compliance with the Commission's order issued September 12, 1997 in the above-referenced proceeding, Rochester Gas and Electric Corporation, 80 FERC ¶ 61,284 (1997), an update to the market power study originally submitted in support of RG&E's request for market-based rate authority.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or November 3, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27770 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3444–001]

Sempra Energy Solutions; Notice of Filing

October 24, 2000.

Take notice that on October 12, 2000, Sempra Energy Solutions, tendered for filing proposed designations for its revised FERC Electric Rate Schedule No. 1 in its FERC Electric Service Tariff pursuant to Commission Order No. 614.

The proposed designations are tendered pursuant to a letter order

issued September 12, 2000 under authority delegated to Michael C. McLaughlin, Director, Division of Corporate Applications.

Copies of the filing were served upon the official service lists in Docket Nos. ER96–2372–018, ER98–3515–000 and ER00–3444–000, and on the California Public Utilities Commission.

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, Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or November 2, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27772 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–34–000]

Southwest Power Pool, Inc.; Notice of Filing

October 24, 2000.

Take notice that on October 20, 2000, Southwest Power Pool, Inc. (SPP) filed a corrected version of Exhibit No. SPP–3 which includes a redlined SPP RTO Membership Agreement that highlights all of the changes to the existing Membership Agreement. SPP also submitted the attached Exhibit List of all SPP exhibits includes in the October 13 filing.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before November 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 00–27766 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER00–2962–000 and ER00–2962–003]

West Georgia Generating Company L.P.; Notice of Filing

October 25, 2000.

Take notice that on October 18, 2000, West Georgia Generating Company, L.P. (West Georgia), an Exempt Wholesale Generator that owns and operates a 640 MW electric generation plant in Thomastown, Georgia, tendered for filing a Negotiated Contract for the Purchase of Firm Capacity and Energy between West Georgia Generating Company L.P., and Gulf Power Company (the Agreement). The purpose of the filing was to provide corrected designations under Order No. 614, FERC Stats. and Regs. ¶ 31,096 (2000), as required by the letter order issued in these dockets on September 21, 2000.

West Georgia requests that the Agreement be permitted to become effective June 1, 2000.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, 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 and protests should be filed on or November 8, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http:///www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 00–27777 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER00–2964–000 and ER00–2964–003]

West Georgia Generating Company L.P.; Notice of Filing

October 25, 2000.

Take notice that on October 18, 2000, West Georgia Generating Company (West Georgia), an Exempt Wholesale Generator that owns and operates a 640 MW electric generation plant in Thomastown, Georgia, tendered for filing a Power Purchase Agreement between West Georgia Generating Company L.P. and Oglethorpe Power Corporation (the Agreement). The purpose of the filing was to provide corrected designations under Order No. 614, FERC Stats. and Regs. ¶31,096 (2000), as required by the letter order issued in these dockets on September 21, 2000.

West Georgia requests that the Agreement be permitted to become effective June 6, 2000.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, 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 and protests should be filed on or November 8, 2000. Protests will be considered by the Commission to determine the

appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 00–27779 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–136–000, et al.]

Dynegy Midwest Generation, Inc., et al.; Electric Rate and Corporate Regulation Filings

October 20, 2000.

Take notice that the following filings have been made with the Commission:

1. Dynegy Midwest Generation, Inc.

[Docket No. ER01–136–000]

Take notice that on October 16, 2000, Dynegy Midwest Generation, Inc. (DMG), tendered for filing a Negotiated Tier 1 Memorandum (NT1M) under the Power Purchase Agreement between DMG and Illinois Power Company, filed pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's regulations.

DMG requests that the Commission accept the NT1M for filing with an effective date of January 1, 2001.

Comment date: November 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Tenaska Alabama II Partners, L.P.

[Docket No. ER01–137–000]

Take notice that on October 16, 2000, Tenaska Alabama II Partners, L.P., 1044 North 115th Street, Suite 400, Omaha, Nebraska 68154 (Tenaska Alabama II), which will own and operate a natural gas-fired electric generating facility to be constructed in Autauga County, Alabama, tendered for filing with the Federal Energy Regulatory Commission its initial FERC Electric Rate Schedule No. 1 which will enable Tenaska Alabama II to engage in the sale of electric energy and capacity at market-based rates.

Comment date: November 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Dynegy Danskammer, L.L.C.

[Docket No. ER01–140–000]

Take notice that on October 17, 2000, Dynegy Danskammer, L.L.C. (Danskammer), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Tariff No. 1 to become effective as of the date specified by the Commission. Danskammer also filed certain long term agreements designated as separate service agreements under its FERC Electric Tariff No. 1.

Danskammer intends to sell energy, capacity and ancillary services at wholesale at rates, terms, and conditions to be mutually agreed to with the purchasing party. Danskammer's FERC Electric Tariff No. 1 provides for the sale of electric energy, capacity and ancillary services at agreed prices.

Comment date: November 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Dynegy Roseton, L.L.C.

[Docket No. ER01–141–000]

Take notice that on October 17, 2000, Dynegy Roseton, L.L.C. (Roseton), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Tariff No. 1 to become effective as of the date specified by the Commission. Roseton also filed certain long term agreements designated as separate service agreements under its FERC Electric Tariff No. 1.

Roseton intends to sell energy, capacity and ancillary services at wholesale at rates, terms, and conditions to be mutually agreed to with the purchasing party. Roseton's FERC Electric Tariff No. 1 provides for the sale of electric energy, capacity and ancillary services at agreed prices.

Comment date: November 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Ameren Energy Marketing Company

[Docket No. ER01–142–000]

Take notice that on October 17, 2000, Ameren Energy Marketing Company tendered for filing a Master Power Purchase and Sale Agreement and Confirmation Letter between Ameren Energy Marketing Company and Central Illinois Light Company. Ameren asserts that the purpose of the Agreement is to permit Ameren to make sales of capacity and energy at market based rates to Central Illinois Light Company pursuant to Ameren's Market Based Rate Power Sales Tariff filed in Docket No. ER00–816–000.

Comment date: November 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Public Service Corporation

[Docket No. ER01–143–000]

Take notice that on October 17, 2000, Wisconsin Public Service Corporation (WPSC), tendered for filing its revised full requirements service tariff, Rate Schedule W–1A for Full Requirements Service to Wholesale Customers (''Rate Schedule W–1A''). WPSC is revising its currently effective tariff, Rate Schedule W–1, to include unbundled generation service to accommodate new customers who desire to purchase full requirements service from WPSC.

WPSC requests an effective date of December 17, 2000.

Copies of the filing were served upon WPSC's Rate Schedule W–1A customers, Stratford Water & Electric, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: November 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Madison Gas and Electric Company

[Docket No. ER01–149–000]

Take notice that on October 16, 2000, Madison Gas and Electric Company (MGE), tendered for filing a service agreement under MGE's Market-Based Power Sales Tariff with Wisconsin Electric Power Company.

MGE requests the agreement be effective on the date it was filed with the FERC.

Comment date: November 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 00–27762 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–5–000, et al.]

Oregon Trail Electric Consumers Cooperative, Inc., et al.; Electric Rate and Corporate Regulation Filings

October 23, 2000.

Take notice that the following filings have been made with the Commission:

1. Oregon Trail Electric Consumers Cooperative, Inc.

[Docket Nos. EC01–5–000 and ER01–124–000]

Take notice that on October 13, 2000, Oregon Trail Electric Consumers Cooperative, Inc. (Oregon Trail) submitted for filing an application seeking an order: (1) Authorizing Oregon Trail to lease the 66-mile-long 138-kV Hines-West John Day transmission line and three step-down transformers owned by Oregon Trail to the Bonneville Power Administration (BPA) pursuant to Section 203 of the Federal Power Act (FPA); and (2) accepting and approving, without suspension or hearing, amendments to an existing operation and maintenance agreement between Oregon Trail and BPA for such transmission facilities pursuant to Section 205 of the FPA.

Comment date: November 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. PG&E Energy Trading Holdings, LLC, PG&E Energy Trading-Power, L.P.

[Docket No. EC01–6–000]

Take notice that on October 16, 2000, PG&E Energy Trading Holdings, LLC and PG&E Energy Trading-Power, L.P. (PGET) tendered for filing an application for authorization pursuant to section 203 of the Federal Power Act for an intra-corporate change in the upstream ownership of PGET.

A copy of this Application was served upon the California Public Utilities Commission.

Comment date: November 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Central Hudson Gas & Electric Corporation, Consolidated Edison Co. of New York, Inc., Niagara Mohawk Power Corporation, Dynegy Power Corp.

[Docket Nos. EC01–7–000 and and ER01–126–000]

Take notice that on October 16, 2000, Central Hudson Gas & Electric Corporation (Central Hudson), Consolidated Edison Co. of New York, Inc. (Con Edison), Niagara Mohawk Power Corporation (Niagara Mohawk) and Dynegy Power Corp. on behalf of Dynegy Roseton, L.L.C. and Dynegy Danskammer, L.L.C. (the Dynegy Acquirors) (collectively the Applicants) tendered for filing an application under Section 203 of the Federal Power Act for approval of the transfer of (a) certain Federal Power Act (FPA) jurisdictional facilities associated with the transfer of certain generation assets owned by Central Hudson, Con Edison and Niagara Mohawk to the Dynegy Acquirors and (b) of certain limited FPA jurisdictional transmission facilities of Con Edison and Niagara Mohawk to Central Hudson. The applicants also tendered for filing under Section 205 of the Federal Power Act a request by Central Hudson for Commission approval of certain interconnection agreements and transmission facility construction payment obligations.

Comment date: November 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Tenaska Alabama II Partners, L.P.

[Docket No. EG01–6–000]

Take notice that on October 16, 2000, Tenaska Alabama II Partners, L.P., 1044 North 115th Street, Suite 400, Omaha, Nebraska 68154 (Tenaska Alabama II), 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.

Tenaska Alabama II, a Delaware limited partnership, will construct, own, and operate a natural gas fired combined-cycle fuel conversion facility (the Facility) to be constructed and located near Billingsley, Alabama, in Autauga County. The Facility will consist of three ''F'' Class combustion turbine-generators and one steam turbine-generator, and will use natural gas as the primary fuel and fuel oil as backup fuel for the combustion turbines. The Facility will also include natural gas receipt facilities, fuel oil storage facilities, fuel oil unloading facilities, and a switchyard. The nominal net electric output of the facility will be approximately 900 MW. The Facility will include related transmission interconnection components necessary to interconnect the Facility with Alabama Power Company.

The Facility will be used exclusively for the generation of electric energy to be delivered to an unaffiliated third-party customer.

Comment date: November 13, 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.

5. Western Farmers Electric Cooperative

[Docket No. EL01–4–000]

Take notice that on October 16, 2000, Western Farmers Electric Cooperative (Applicant) filed with the Federal Energy Regulatory Commission a petition for declaratory order disclaiming jurisdiction and request for expedited consideration.

The Applicant owns Hugo Generation Station, a 475 MV coal-fired electric generating facility located in Hugo, Oklahoma, approximately 250 miles of 138,000 volt overhead transmission line, five related switch substations, six related taps and eleven related substations, all located in Oklahoma (the Project). Applicant is seeking a disclaimer of jurisdiction in connection with a lease and leaseback financing involving the Project.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. SOWEGA Power LLC

[Docket No. EL01–5–000]

Take notice that on October 16, 2000, SOWEGA Power LLC tendered for filing a request for waiver of the Commission's open access transmission tariff and OASIS requirements to the extent required in connection with SOWEGA Power LLC's ownership of

interconnection facilities (generation step-up transformers and an interest in certain common bus facilities) located at the plant site where SOWEGA Power LLC's two 50 MW summer nominal capacity generators are located.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Pacific Gas and Electric Company v. Sunnyside Cogeneration Partners, L.P., RW Monterey, Inc., Ridgewood Electric Power Trust II, Ridgewood Power LLC

[Docket Nos. EL01–7–000 and QF91–50–000]

Take notice that on October 18, 2000, Pacific Gas and Electric Company filed a Petition for Declaratory Order and Revocation of Qualifying Status, Motion for the Establishment of Just and Reasonable Rates, and Motion for Refunds (Petition). The Petition involves a cogeneration facility self-certified as a QF in Docket No. QF91–50–000.

Comment date: November 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. California Independent System Operator Corporation

[Docket No. ER00–2383–000]

Take notice that on October 17, 2000, the California Independent System Operator Corporation (ISO) tendered for filing a Notice of Implementation, posted on the ISO Home Page and sent to all Market Participants on October 16, 2000, which specifies that, effective October 26, 2000, the ISO will begin implementation of Adjustment Bids in conjunction with Inter-Scheduling Coordinator Energy Trades (Inter-SC Trade Adjustment Bids).

The ISO states that this filing has been served on all parties listed on the official service list in the above-captioned docket.

Comment date: November 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Commonwealth Edison Company

[Docket No. ER01–144–000]

Take notice that on October 18, 2000, Commonwealth Edison Company (ComEd) submitted for filing a revised firm Agreement with Commonwealth Edison Company, in its wholesale merchant function (WMD) under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of October 1, 2000 for the Agreement with WMD, and accordingly, seeks waiver of the Commission's notice requirements.

Comment date: November 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. New York State Electric & Gas Corporation

[Docket No. ER01–145–000]

Take notice that on October 18, 2000, New York State Electric & Gas Corporation (NYSEG) tendered for filing as an initial rate schedule pursuant to Part 35 of the Federal Energy Regulatory Commission's regulations, 18 CFR Part 35, an Interconnection Agreement (IA) with Boralex Chateaugay, Inc. (Boralex). The IA provides for interconnection service to Boralex at the rates, terms, charges, and conditions set forth therein.

NYSEG is requesting that the IA become effective as of October 19, 2000.

Copies of this filing have been served upon the New York State Public Service Commission, Boralex and the New York Independent System Operator, Inc.

Comment date: November 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. New England Power Pool

[Docket No. ER01–146–000]

Take notice that on October 18, 2000, the New England Power Pool (NEPOOL) Participants Committee tendered for filing two Service Agreements for Long-Term Firm Out Service pursuant to Section 205 of the Federal Power Act and 18 CFR 35.12 of the Commission's regulations.

Acceptance of this Service Agreement will recognize the provision of Long-Term Firm Out Service to Constellation Power Source, Inc. and Sithe Power Marketing, L.P., in accordance with the provisions of the NEPOOL Open Access Transmission Tariff, as amended and supplemented.

In each case, an effective date of January 1, 2001 for commencement of transmission service has been requested.

Copies of this filing were sent to all NEPOOL members, the New England public utility commissioners and all parties to the transaction.

Comment date: November 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Southern Energy Delta, L.L.C., Southern Energy Potrero, L.L.C.

[Docket No. ER01–147–000]

Take notice that on October 18, 2000, Southern Energy Delta, L.L.C. (SE Delta) and Southern Energy Potrero, L.L.C. (SE Potrero), tendered for filing revised tariff sheets to the Must-Run Service Agreements (RMR Agreements) between SE Delta, SE Potrero, and the California Independent System Operator Corporation (the ISO). If accepted, these revisions would permit SE Delta and SE Potrero to recover their costs incurred pursuant to ISO Tariff Amendment No. 26.

Comment date: November 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Consumers Energy Company

[Docket No. ER01–148–000]

Take notice that on October 18, 2000, Consumers Energy Company (Consumers) tendered for filing executed Firm and Non-Firm Point to Point Transmission Service Agreements with Split Rock Energy LLC (Customer) pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and The Detroit Edison Company (Detroit Edison).

The agreements have effective dates of October 11, 2000.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison, and the Customer.

Comment date: November 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Southwest Power Pool, Inc.

[Docket No. ER01–150–000]

Take notice that on October 18, 2000, Southwest Power Pool, Inc. (SPP) tendered for filing an executed service agreement for Firm Point-to-Point Transmission Service with Western Resources Generation Services (Transmission Customer).

SPP seeks an effective date of November 1, 2000 for the service agreement.

A copy of this filing was served on the Transmission Customer.

Comment date: November 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Southwest Power Pool, Inc.

[Docket No. ER01–151–000]

Take notice that on October 18, 2000, Southwest Power Pool, Inc. (SPP) tendered for filing two executed service agreements for Firm Point-to-Point Transmission Service with UtiliCorp and Western Resources Generation Services (collectively, Transmission Customers)

Copies of this filing were served on the Transmission customers.

Comment date: November 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER01–152–000]

Take notice that on October 18, 2000, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Service Agreement No. 328 to add Allegheny Energy Supply Company, LLC to Allegheny Power's Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission.

The proposed effective date under the Service Agreement is January 1, 2001.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

Comment date: November 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER01–153–000]

Take notice that on October 18, 2000, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Service Agreement No. 329 to add Allegheny Energy Supply Company, LLC to Allegheny Power's Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission.

The proposed effective date under the Service Agreement is January 1, 2001.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

Comment date: November 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER01–154–000]

Take notice that on October 18, 2000, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Service Agreement No. 330 to add Allegheny Energy Supply Company, LLC to Allegheny Power's Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission.

The proposed effective date under the Service Agreement is January 1, 2001.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

Comment date: November 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Entergy Services, Inc.

[Docket No. ER01–155–000]

Take notice that on October 18, 2000, Entergy Services, Inc. (Entergy), on behalf of Entergy Gulf States, Inc., tendered for filing an amended Exhibit A to the Agreement for Special Requirements Wholesale Electric Service between Entergy Gulf States, Inc., and Sam Rayburn G&T Electric Cooperative, Inc. Entergy states that the amended Exhibit A reflects changes to certain points of delivery for Sam Houston Electric Cooperative, Inc.

Comment date: November 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. Pennsylvania Electric Company

[Docket No. ER01–156–000]

Take notice that on October 18, 2000, Pennsylvania Electric Company (d/b/a GPU Energy) submitted for filing a Generation Facility Transmission Interconnection Agreement (Agreement) by and between GPU Energy and Handsome Lake Energy, L.L.C. (Handsome Lake), entered into on October 6, 2000.

Copies were served upon Handsome Lake and regulators in the State of Pennsylvania.

Comment date: November 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. Sierra Pacific Power Company

[Docket No. ER01–159–000]

Take notice that on October 17, 2000, Sierra Pacific Power Company (Sierra) filed a revision to the General Transfer Agreement (GTA) between Sierra and Bonneville Power Administration (BPA).

Sierra states that the revision would decrease the total monthly facilities charge from $131,389 to $130,755 to reflect a change in the percentage of initial capital investment used to calculate the Estimated O&M Charge.

Sierra requests that the decreased charge be made effective at 2400 hours on October 31, 2000.

Copies of this filing were served upon the Public Utilities Commission of Nevada, the Public Utilities Commission of California, the Nevada Bureau of Consumer Protection and Bonneville Power Administration.

Comment date: November 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

22. Tenaska Frontier Partners, Ltd.

[Docket No. ER01–168–000]

Take notice that on October 18, 2000, Tenaska Frontier Partners, Ltd., 1044 North 115 Street, Suite 400, Omaha, Nebraska 68154 (Tenaska Frontier), tendered for filing with the Federal Energy Regulatory Commission the Power Purchase Agreement between Tenaska Frontier and PECO Energy Company (PECO) dated as of October 29, 1997, and amended as of August 24, 1998 (PPA). The filing is made pursuant to Tenaska Frontier's authority to sell power at market-based rates under its Market-Based Rate Tariff, Rate Schedule FERC No. 1, Original Volume No. 1, approved by the Commission on March 30, 1998, in Docket No. ER98–1767–000.

Comment date: November 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

23. Northern Indiana Public Service Company

[Docket No. ER01–169–000]

Take notice that on October 18, 2000, Northern Indiana Public Service Company (Northern Indiana) filed a Service Agreement pursuant to its Wholesale Market-Based Rate Tariff with Reliant Energy Services, Inc. (Reliant).

Northern Indiana has requested an effective date of October 1, 2000.

Copies of this filing have been sent to Reliant, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment date: November 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

24. LG&E-Westmoreland Hopewell

[Docket Nos. QF88–85–000 and EL01–8–000]

Take notice that on October 16, 2000, LG&E-Westmoreland Hopewell, a limited general partnership with its principal place of business at 12500 Fair Lakes Circle, Suite 350, Fairfax, Virginia 22033 filed in the above-referenced docket a petition for a limited waiver of the Commission's operating standard pursuant to § 292.205(c) of the Commission's regulations.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 00–27763 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11480–001 Alaska]

Haida Corporation Project; Notice of Availability Of Final Environmental Assessment

October 24, 2000.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for an original license for Haida Corporation's proposed Reynolds Creek Hydroelectric Project, and has prepared a Final Environmental Assessment (FEA). The project would be located about 10 miles east of Hydaburg, Alaska on Prince of Wales Island.

On September 9, 1999, the Commission staff issued a draft environmental assessment (DEA) for the project and requested that comments be filed with the Commission within 45 days. Comments on the DEA were filed by the Alaska Power & Telephone Company, National Marine Fisheries Service, Alaska Department of Fish and Game, Alaska Division of Governmental Coordination, Haida Corporation, and Natural Heritage Institute and are addressed in the FEA.

The FEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the FEA are available for review in the Commission's Public Reference Room, Room 2A, at 888 First Street, N.E., Washington, D.C. 20426, and on the web at http://www.ferc.fed.us/online/rims.htm [please call (202 208–222 for assistance].

David P. Boergers

Secretary.

[FR Doc. 00–27769 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission

October 24, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major New License.

b. *Project No.:* 309–036.

c. *Date filed:* October 11, 2000.

d. *Applicant:* Reliant Energy Mid-Atlantic Power Holdings, LLC.

e. *Name of Project:* Piney Hydroelectric Project.

f. *Location:* Project is located on the Clarion River in Clarion County, Pennsylvania, and would not utilize any federal lands or facilities.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Thomas Teitt, Reliant Energy Mid-Atlantic Power Holdings, LLC, 1001 Broad St., Johnstown, PA 15907–1050.

i. *FERC Contact:* Any questions on this notice should be addressed to William Guey-Lee, E-mail address william.gueylee@ferc.fed.us, or telephone (202) 219–2808.

j. *Status of Environmental Review:* This application is not ready for environmental analysis at this time.

k. *Description of Project:* The project consists of the following: (1) The 427-foot-long and 139-foot-high concrete arch dam with crest elevation at 1,075 ft. msl, an 84-foot-long left non-overflow wall, and a 200-foot-long right non overflow wall; (2) an 800-acre surface area reservoir; (3) an 84-foot-wide integral intake; (4) three 230-foot-long, 14-foot-diameter penstocks; (5) a powerhouse with 3 generating units totaling 28,300 kilowatts; (6) a 250-foot-long tailrace; (7) 700-foot-long and 900-foot-long transmission lines; and (8) appurtenant facilities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available

for inspection and reproduction at the address in item h above.

David P. Boergers,

Secretary.

[FR Doc. 00–27764 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–260–000]

Texas Gas Transmission Corporation; Notice of Settlement Conference

October 24, 2000.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, November 1 and possibly continuing to November 2, 2000 at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, for the purpose of discussing the possible settlement of issues in the proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact William J. Collins at (202) 208–0248.

David P. Boergers,

Secretary.

[FR Doc. 00–27768 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M195

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–52–000]

Williams Gas Pipelines Central, Inc.; Notice of Informal Settlement Conference

October 24, 2000.

An informal settlement conference in the above docket will be held on Monday, October 30, 2000, in the Wyandot Room, Hilton Kansas City Airport, 8801 NW 112th Street, Kansas City, Missouri 64153. The informal settlement conference will begin at 9:30 a.m.

All interested parties in the above docket are requested to attend the informal settlement conference. If a party has any questions regarding the conference, please call Richard Miles, the Director of the Dispute Resolution Service. His telephone number is 1 877 FERC ADR (337–2237) or 202/208–0702 and his e-mail address is *richard.miles@ferc.fed.us.* If you plan on attending the conference, please R.S.V.P. to Jamie Capps at Williams by e-mail at *jamie.capps@williams.com,* by fax at 918/573–4195 or by phone at 918/573–4218 so that appropriate accommodations may be made. Williams would also like to extend to all parties the option of attending in business casual attire.

David P. Boergers,

Secretary.

[FR Doc. 00–27765 Filed 10–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice

October 25, 2000.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: November 1, 2000, 9 am

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Docket No. EL00–95–000, San Diego Gas & Electric Company, v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange; Docket No. EL00–98–000, Investigation of Practices of the California Independent System Operator and the California Power Exchange; Docket No. EL00–107–000, Public Meeting in San Diego, California; Docket No. ER00–3461–000, California Power Exchange Corporation; Docket No. ER00–3673–000, California Independent System Operator Corporation.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone (202) 208–0400.

David P. Boergers,

Secretary.

[FR Doc. 00–27865 Filed 10–26–00; 10:51 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6893–4]

Reference Dose for Methylmercury

AGENCY: Environmental Protection Agency.

ACTION: Notice of peer-review workshop and public comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing that Versar, Inc., an EPA contractor for external scientific peer review, will convene a panel of experts and organize and conduct an external peer-review workshop to review the draft document titled, Reference Dose for Methylmercury (NCEA–S–0930). The EPA is also announcing a 30-day public comment period for the draft document. The document was prepared by the EPA's National Center for Environmental Assessment-Washington Office (NCEA–W) within the Office of Research and Development. NCEA will consider the peer-review advice and public comment submissions in revising the document.

DATES: The peer-review workshop will begin on Wednesday, November 15, 2000, at 9 a.m. and end at 5 p.m. Members of the public may attend as observers, and there will be a limited time for comments from the public in the afternoon. The 30-day public comment period begins October 30, 2000, and ends November 29, 2000.

ADDRESSES: The external peer-review panel workshop will be held at the Marriott Crystal Gateway Hotel, 1700 Jefferson Davis Highway, Arlington, Virginia 22202, (703) 920–3230. Versar, Inc., an EPA contractor, is organizing, convening, and conducting the peer-review workshop. To attend the workshop, register by November 6, 2000, by calling Versar, Inc. (Ms. Marit Espevik) at (703) 750–3000, ext. 460, or send a facsimile to (703) 642–6954. You also can register via e-mail at *espevmar@versar.com.* Space is limited, and reservations will be accepted on a first-come, first-served basis. There will be a limited time for comments from the public during the afternoon of the workshop. Please let Versar, Inc. know if you wish to make comments.

The external review draft is available primarily via the Internet on the National Center for Environmental Assessment's home page at http://www.epa.gov/ncea under the What's New and Publications menus. A limited number of paper copies are available from NCEA's Technical Information Staff; telephone: (202) 564–3261; facsimile: (202) 565–0050. If you are

requesting a paper copy, please provide your name, mailing address, and the document title, Reference Dose for Methylmercury (NCEA–S–0930). Copies are not available from Versar, Inc.

Comments may be mailed to the Technical Information Staff (8623D), NCEA–W, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, or delivered to the Technical Information Staff at 808 17th Street, NW., 5th Floor, Washington, DC 20006; telephone: (202) 564–3261; facsimile: (202) 565–0050. Comments should be in writing and must be postmarked by November 29, 2000. Please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies. Electronic comments may be e-mailed to: nceadc-comment@epa.gov.

Please note that all technical comments received in response to this notice will be placed in a public record. For that reason, 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 workshop information, registration, and logistics, contact Versar Inc., (Ms. Marit Espevik, telephone: (703) 750–3000, ext. 460; facsimile: (703) 642–6954).

For information about the draft document, contact the Technical Information Staff, NCEA-Washington Office; telephone: (202) 564–3261; facsimile: (202) 565–0050; or e-mail: nceadc-comment@epa.gov.

SUPPLEMENTARY INFORMATION: In 1997, U.S. EPA issued the Mercury Study Report to Congress (MSRC). Among the assessments in the MSRC was a state-of-the-science evaluation of the health effects of methylmercury. There has been considerable discussion within the scientific community regarding the level of exposure to methylmercury that is likely to be without appreciable risk of adverse health effects. Congress directed EPA through the House Appropriations Report for FY99 to contract with the National Research Council to evaluate the body of data on the health effects of methylmercury, with particular emphasis on new data since the 1997 Mercury Study Report to Congress, and provide recommendations regarding issues relevant to the derivation of an appropriate RfD for methylmercury. EPA has thoroughly reviewed this document, and concurs with the NRC findings and recommendations. The NRC document is used as the basis for the current EPA derivation of the RfD for methylmercury.

Methylmercury is a highly toxic substance; there are a number of adverse health effects associated with methylmercury exposure. Most extensive are the data for neurotoxicity, particularly in developing organisms. Therefore the brain is considered to be the most sensitive target organ for which there are data suitable for derivation of an RfD. The NRC considered three epidemiological longitudinal developmental studies suitable for quantitative risk assessment: the Seychelles Islands, the Faroe Islands, and New Zealand. The Seychelles study has yielded no evidence of impairment related to methylmercury exposure, while both the other studies have found dose-related adverse effects on a number of neuropsychological endpoints. The Faroe Islands study, the larger of the latter two studies, has been extensively peer-reviewed and is used for the derivation of the RfD. The NRC's major finding is that the results of the Faroe Islands study provide a scientifically credible basis on which to base EPA's RfD.

The RfD derived in this assessment is 0.1 ug/kg per day. This is the same as the RfD derived by EPA in 1995 based on an earlier study of a poisoning episode in Iraq, in which data on adverse neurological effects in infants was used as the point of departure for derivation of the RfD.

Dated: October 24, 2000.

William H. Farland,

Director, National Center for Environmental Assessment.

[FR Doc. 00–27781 Filed 10–27–00; 8:45 am]

BILLING CODE 6560–50–U

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Sub-Saharan Africa Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank)

SUMMARY: The Sub-Saharan Africa Advisory Committee was established by Pub. L. 105–121, November 26, 1997, to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion of the Bank's financial commitments in Sub-Saharan Africa under the loan, guarantee and insurance programs of the Bank. Further, the committee shall make recommendations on how the Bank can facilitate greater support by U.S. commercial banks for trade with Sub-Saharan Africa.

TIME AND PLACE: Wednesday, November 15, 2000, at 9:30 a.m. to 12:30 p.m. The meeting will be held at the Export-Import Bank in Room 1143, 811 Vermont Avenue, NW, Washington, DC 20571.

AGENDA: This meeting will include a review of Export-Import Bank activities in sub-Sahara Africa.

PUBLIC PARTICIPATION: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to November 10, 2000, Teri Stumpf, Room 1215, Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565–3502 or TDD (202) 565–3377.

FOR FURTHER INFORMATION CONTACT: For further information, contact Teri Stumpf, Room 1215, 811 Vermont Ave., NW, Washington, DC 20571, (202) 565–3502.

John M. Niehuss,

General Counsel.

[FR Doc. 00–27761 Filed 10–27–00; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2448]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

October 23, 2000.

Petitions for Reconsideration and Clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying Room CY–A257, 445 12th Street, S.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by November 14, 2000. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for oppositions have expired.

Subject: Implementation of 911 Act; Use of N11 Codes and Other Abbreviated Dialing Arrangements (CC

Docket No. 92–105, WT Docket No. 00–110).

Number of Petitions Filed: 1.

Subject: Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees (WT Docket No. 97–82).

Number of Petitions Filed: 5.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–27746 Filed 10–27–00; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Petition P2–00]

Petition of China National Foreign Trade Transportation (Group) Corp. (SINOTRANS) for Exemption From Section 9(c) of the Shipping Act of 1984; Notice of Filing

Notice is hereby given that China National Foreign Trade Transportation (Group) Corp. (SINOTRANS) (''Petitioner'') has petitioned, pursuant to Section 16 of the Shipping Act of 1984, 46 U.S.C. app. Section 1715, for a limited exemption from the tariff publishing requirements of Section 9 of the 1984 Act, 46 U.S.C. app Section 1708(c). Petitioner seeks an exemption so that it can lawfully reduce rates to meet or exceed the published rates of competing ocean common carriers on one day's notice.

In order for the Commission to make a thorough evaluation of the petition for exemption, interested persons are requested to submit views or arguments in reply to the petition no later than 14 days following publication of this notice in the **Federal Register**. Replies shall consist of an original and 15 copies, be directed to the Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573–0001, and be served on Petitioner's counsel; David P. Street, Galland, Kharasch, Greenberg, Fellman & Swirsky, P.C.,1054 Thirty-First Street, N.W., Washington, D.C. 20007–4492. It is also requested that a copy of the reply be submitted in electronic form (WordPerfect, Word or ASCII) on diskette or e-mailed to *Secretary@fmc.gov.*

Copies of the petition are available at the Office of the Secretary of the Commission, 800 N. Capitol Street, N.W., Room 1046. Parties participating in this proceeding may elect to receive service of the Commission's issuances in this proceeding through e-mail in lieu of service by U.S. mail. A party opting for electronic service shall advise the Office of the Secretary in writing and provide an e-mail address where service can be made.

By the Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–27827 Filed 10–27–00; 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 November 14, 2000.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. *Darlene L. Brandt,* Lincoln, Nebraska; to acquire voting shares of Mid-Nebraska Company, Inc., Kearney, Nebraska, and thereby indirectly acquire voting shares of Kearney State Bank and Trust Company, Kearney, Nebraska.

2. *Myra K. Mask Irrevocable Trust,* Allen, Oklahoma, and Debbie Rinehart as Trustee, Allen, Oklahoma; to acquire voting shares of Allen Bancshares, Inc., Allen, Oklahoma, and thereby indirectly acquire voting shares of Farmers State Bank, Allen, Oklahoma.

Board of Governors of the Federal Reserve System, October 25, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–27830 Filed 10–27–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 24, 2000.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Savings Bancorp, Inc., Circleville, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Savings Bank, Circleville, Ohio.

B. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. F&M National Corporation, Winchester, Virginia; to merge with Atlantic Financial Corp., Newport News, Virginia, and thereby indirectly acquire voting shares of F&M Bank–Atlantic, Gloucester, Virginia.

In connection with this application, Applicant also has applied to acquire Johnson Mortgage Company, L.L.C., Newport News, Virginia, and thereby engage in origination, closing, and selling of mortgages and related servicing rights to outside investors, pursuant to § 225.28(b)(1) of Regulation Y.

C. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Whitney Holding Corporation, New Orleans, Louisiana; to acquire 100 percent of the voting shares of American Bank, Houston, Texas.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. First Banks, Inc., St. Louis, Missouri, through its subsidiary, First Banks America, Inc., St. Louis, Missouri; to acquire 100 percent of the voting shares of The San Francisco Company, San Francisco, California, and thereby indirectly acquire voting shares of Bank of San Francisco, San Francisco, California.

Board of Governors of the Federal Reserve System, October 25, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–27829 Filed 10–27–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), National Health Information Infrastructure Workgroup, Health Statistics for the 21st Century Workgroup.

Time and Date: November 20, 2000, 9 a.m.–5 p.m.

Place: National Center for Health Statistics (New Facility), 4105 Hopson Road, Research Triangle Park, North Carolina 27709, (919) 541–0171.

Status: Open.

Purpose: Two Workgroups of the NCVHS, the National Health Information Infrastructure Workgroup and the Health Statistics for the 21st Century Workgroup, are conducting a joint public hearing to solicit opinions from the public, including oral and written testimony, about the issues raised in two interim reports: ''Toward a National Health Information Infrastructure'' and ''Shaping a Vision for 21st Century Health Statistics.'' The interim reports may be downloaded from the NCVHS homepage at: *http://www.ncvhs.hhs.gov/* and all participants are encouraged to review them before the meeting.

The hearing will explore challenges to the development and implementation of a National Health Information Infrastructure (NHII). As envisioned in the interim report, the NHII is the set of technologies, standards, applications, systems, values, and laws that support all facets of individual health, health care, and public health. The broad goal of the NHII is to deliver information to individuals—consumers, patients, and professionals—when and where they need it, so they can use this information to make informed decisions about health and health care. Speakers invited by the NHII workgroup will discuss barriers to accomplishing the objectives described in the report, including financial and technical barriers to the NHII, along with recommendations for actions which could be taken by the Federal government and others to overcome constraints.

The hearing will also seek comments about major trends and issues in population health and their implications for future information needs described in the report, ''Shaping a Vision for 21st Century Health Statistics.'' The report outlines themes that have emerged from national consultations involving health statistics users, public health providers, advocacy groups and health care providers at local, state, and Federal levels. Speakers invited by the 21st Century Workgroup will be asked to discuss specific local and state health statistics needs, specific means for generating private and public cooperation in defining health statistics needs and generating health statistics collaborations. Invited speakers will also be asked to provide specific comments and suggestions on the interim report, particularly as it relates to local and state health statistics needs and private and public cooperation.

The November hearing is the third of a series of joint public hearings to be conducted in several regions of the country through the fall of 2000 to solicit testimony on the reports. Information from the hearings will be incorporated in the final reports expected to be completed in early 2001.

Persons who would like to make a brief oral comment (3–5 minutes) during the November hearing will be placed on the agenda as time permits. To be included on the agenda, please submit testimony by November 8, 2000, to Patrice Upchurch at (301) 458–4540, by e-mail at pupchurch@cdc.gov, or postal address at NCHS, Presidential Building, Room 1100, 6525 Belcrest Road, Hyattsville, Maryland 20782. Persons wishing to submit written testimony only (no more than 2–3 typewritten pages) should also adhere to the due date of November 8, 2000. Testimony will also be accepted on-site as time permits. Please consult Ms. Upchurch for further information about these arrangements. Additional information about the meeting will be provided on the NCVHS homepage at: http://www.ncvhs.hhs.gov/ shortly before the meeting date.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS website: http://www.ncvhs.hhs.gov/.

Dated: October 23, 2000.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 00–27748 Filed 10–27–00; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93612–2002]

Administration for Native Americans: Availability of Financial Assistance

AGENCY: Administration for Native Americans (ANA), ACF, DHHS.

ACTION: Announcement of availability of competitive financial assistance to assist eligible applicants in assuring the survival and continuing vitality of their Native American languages.

SUMMARY: The Administration for Native Americans (ANA) announces the availability of Fiscal Year 2001 funds and other available funds for Native American language projects. Financial assistance provided by ANA is designed to assist applicants in designing projects which will promote the survival and continuing vitality of Native American languages. The Administration for Native Americans advises all applicants that grant awards made under this announcement will have a September 30, 2001 project Start Date. Applicants should, therefore develop projects that begin no earlier than this date.

Application Kit: Application kits, approved by the OMB under control number 0980–0204, which expires April 30, 2003, containing the necessary forms and instructions to apply for a grant under this program announcement, may be obtained by calling toll free: The Applicant Help Desk, Administration for Native Americans, 1–877–922–9262. Or, copies of this program announcement and many of the required forms may also be obtained electronically at the ANA World Wide Web Page: *http://www.acf.dhhs.gov/programs/ana* Application kits may also be obtained from ANA training and technical assistance providers. ANA employs contractors to provide short-term training and technical assistance (T/TA) to eligible applicants. T/TA is available under these contracts for a wide range of grant application needs; however, the

contractors are not authorized to write applications. The Training and Technical Assistance (T/TA) is provided at no cost. The ANA Providers serve six areas divided as follows:

Area I—Eastern serves federally recognized Tribes in AL AR CT DC DE FL GA IL IN KY LA MA MD ME MI MN MS NC NH NJ NY OH PA RI SC TN VA VT WI and WV.

Area II—Central serves federally recognized Tribes in AZ CO IA KS ND NE NM MO MT OK SD UT WY NV ID and TX.

Area III—Western serves federally recognized Tribes in CA OR and WA.

Area IV—Alaska serves all eligible applicants in AK.

Area V—Pacific serves all eligible applicants in Hawaii (HI) and the Pacific Islands of American Samoa (AS), Guam (GU), Northern Mariana Islands (MP), and Palau (PW).

Area VI—National serves all eligible applicants on the mainland United States not served by providers for areas 1 through 5. This includes non-federally recognized Tribes, Urban Indians, off-reservation rural Indian communities, Native Americans served through non-federally recognized urban and consortia arrangements and organizations serving Native Hawaiians and Pacific Island Natives living on the Mainland.

ANA employs contracting firms to provide short-term training and technical assistance (T/TA) to clients in the six identified, geographical regions which are served by ANA. The ANA training and technical assistance (T/TA) contractors and their Geographic Areas are:

Geographic Area I

Eastern

Native American Management Services, Inc., Tonya Parker, Project Director, 6858 Old Dominion Drive, Suite 302, McLean, Va. 22101, (703) 821–2226, Fax (703) 821–3680 or (703) 821–8626, 1 (800) 388–7670 (Toll Free), E-mail: *nams@namsinc.org*

Geographic Area II

Central

RJS & Associates, Inc., Dr. Robert J. Swan, C.E.O., RR1, Box 694, Box Elder, Mt. 59521, (406) 395–4727, Fax (406) 395–4759, 1 (888) 838–4757 (Toll Free), Website: *http://www.rjsinc.org/region2.html E-mail: rjsinc@rjsinc.org*

Geographic Area III

Western

Development Associates, Inc., E. Robles, Project Director, 1475 North Broadway, Suite 200, Walnut Creek, Ca. 94596, (925) 935–9711, 1 (800) 666–9711 (Toll Free), Fax (925) 935–0413, Website: *http://www.devassoc.com/ana/index.htm* E-mail: *ana3@devassoc.com*

Geographic Area IV

Alaska

Native American Management Services, Inc., P.J. Wilkins-Bell, Project Director, 1515 Tudor Road, Suite No. #4, Anchorage, Alaska 99519, (907) 770–6230, Fax (907) 770–6232, 1–877–770–6230, E-mail: pjbell@gci.com

Geographic Area V

Pacific

Development Associates, Inc., Tom Torres, Project Director

*Office will be located in Hawaii. The address and telephone numbers were not available for this printing. Please contact their California office at 1–800–666–9711 or (925) 935–9711 and ask for Dr. Elidoro Robles. Their fax number in California is (925) 935–9711. The e-mail address for their California office is ana3@devassoc.com. Check the ANA website (www.acf.dhhs.gov/programs/ana) for Region V's address and telephone number or call ANA at 1–877–922–9262.

Geographic Area VI

National

RJS & Associates, Inc., Dr. Robert J. Swan, C.E.O., RR 1, Box 694, Box Elder, Mt. 59521, (406) 395–4757, Fax (406) 395–4759, 1 (888) 838–4757 (Toll Free), Website: *http://www.rjsinc.org/region6.html* E-mail: rjsinc@rjsinc.org

The printed **Federal Register** notice is the only official program announcement. Although reasonable efforts are taken to assure that the files on the ANA World Wide Web Page containing electronic copies of this Program Announcement is accurate and complete; they are provided for information only. The applicant bears sole responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete.

DATES: The closing date for submission of applications is March 16, 2001.

FOR FURTHER INFORMATION CONTACT: Sheila Cooper, Native American Program Specialist, Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, 370 L'Enfant Promenade, Mail Stop HHH 348F, Washington, DC 20447, telephone: (202) 690–5787 or 1–877–922–9262, telefax: (202) 690–7441, or e-mail: scooper@acf.dhhs.gov

Part I: Supplementary Information

A. Purpose and Availability of Funds

The purpose of this notice is to announce the availability of fiscal year 2001 financial assistance to eligible applicants for the purpose of assisting Native Americans in assuring the survival and continuing vitality of their languages. Financial assistance awards made under this program announcement will be on a competitive basis and the proposals will be reviewed against the evaluation criteria in this announcement. Approximately $2,000,000 in Fiscal Year 2001 has been allocated for category I and II grants. For Category I, Planning Grants (project length: 12 months), the funding level for a budget period of 12 months will be up to $50,000. For Category II, Design and/or Implementation Grants (project length: up to 36 months), the funding level for a budget period of 12 months will be up to $125,000. In accordance with current agency policies, ANA may fund additional highly ranked applications if additional funds become available prior to the next competition.

ANA continues a variety of requirements directed towards enforcing its policy that an eligible grant recipient may only have one active ANA grant awarded from a competitive area at any time. Therefore, while eligible applicants may compete for a Native American language grant in either of the two categories, an applicant may only submit one application and no applicant may receive more than one Native American language grant. All applicants are strongly encouraged to provide a retirement plan fringe benefit for grant-funded employees' salaries up to five (5) percent. Applicants must include sufficient funds for principal representatives, for example; the chief financial officer or project director, from the applicant organization to travel to one post-award grant training and technical assistance conference. This expenditure is mandatory for new grant recipients and optional for grantees that have had ANA grants in the past.

Continuing for fiscal year 2001, under the goals of the Executive Order on Tribally Controlled Colleges and Universities (TCU's), TCU's may now independently apply for an ANA Grant without impacting the eligibility of the Tribe to apply. Previously, only one application was accepted, either from the Tribe or the TCU. Now both the Tribe and the TCU may compete for and

receive ANA grants at the same time, in the same program(s).

New for fiscal year 2001, are two White House Initiatives relating to Hawaiians and Pacific Islanders, and People with Disabilities. In accordance with the Executive Order on Asian American and Pacific Islanders, ANA encourages greater participation from Hawaiian and Pacific Islander communities. The Executive Order on People with Disabilities encourages all communities to address the needs of people with disabilities in all programs in accordance with the Americans with Disabilities Act (ADA). ANA encourages all Native communities to address the needs of People with Disabilities in all aspects of their programs. ANA also encourages greater participation from Native organizations serving People with Disabilities

B. Background

The Congress has recognized that the history of past policies of the United States toward Indian and other Native American languages has resulted in a dramatic decrease in the number of Native American languages that have survived over the past 500 years. Consequently, the Native American Languages Act (Title 1, P.L. 101–477) was enacted to address this decline.

This legislation invested the United States government with the responsibility to work together with Native Americans to ensure the survival of cultures and languages unique to Native America. This law declared that it is the policy of the United States to ''preserve, protect and promote the rights and freedom of Native Americans to use, practice and develop Native American languages.'' While the Congress made a significant first step in passing this legislation in 1990, it served only as a declaration of policy. No program initiatives were proposed, nor any funds authorized to enact any significant programs in furtherance of this policy.

In 1992, Congressional testimony provided estimates that of the several hundred languages that once existed, about 150 are still spoken or remembered today. However, only 20 are spoken by persons of all ages, 30 are spoken by adults of all ages, about 60 are spoken by middle-aged adults, and 45 are spoken by the most elderly.

In response to this testimony, the Congress passed the Native American Languages Act of 1992 (the Act), P.L. 102–524, to assist Native Americans in assuring the survival and continuing vitality of their languages. Passage of the Act was an important second step in attempting to ensure the survival and continuation of Native languages, as it provides the basic foundation upon which the tribal nations can rebuild their economic strength and rich cultural diversity.

While the Federal government recognizes that substantial loss of Native American languages over the past several hundred years, the nature and magnitude of the status of Native American languages will be better defined when eligible applicants under the Act have completed language assessments.

The Administration for Native Americans (ANA) believes that the responsibility for achieving self-sufficiency rests with the governing bodies of Indian Tribes, Alaska Native villages, and in the leadership of Native American groups. This belief supports the ANA principle that the local community and its leadership are responsible for determining goals, setting priorities, and planning and implementing programs that support the community's long-range goals.

Therefore, since preserving a language and ensuring its continuation is generally one of the first steps taken toward strengthening a group's identity, activities proposed under this program announcement will contribute to the social development of Native communities and significantly contribute to their efforts toward self-sufficiency.

The Administration for Native Americans recognizes that eligible applicants must have the opportunity to develop their own language plans, technical capabilities, and access to the necessary financial and technical resources in order to assess, plan, develop and implement programs to assure the survival and continuing vitality of their languages. ANA also recognizes that potential applicants may have specialized knowledge and capabilities to address specific language concerns at various levels. This program announcement reflects these special needs and circumstances.

C. ANA Program and Administrative Policies

Applicants must comply with the following programmatic policies:

- Funds will not be awarded for projects addressing dead languages. For purposes of this announcement, dead languages are those languages that are no longer spoken by any tribal member or community member.
- The Commissioner shall determine the repository for copies of products from Native American language grants funded under this program announcement. At the end of the project period, products or project models of Native American languages grants funded by this program announcement should be sent to the designated repository. Federally recognized Indian Tribes are not required to comply with this condition.

Applicants must comply with the following administrative policies:

- Current Native American language grantees whose grant project period extends beyond September 30, 2001, or who have requested an extension of the grant project beyond that date, are not eligible to apply for a grant under the same program area. Current Native American language grantees with project periods beyond September 30, 2001, may not compete for additional Native American language grants.
- Applicants for Category I may propose 12- to 17-month projects; applicants for Category II may propose up to 36-month projects.
- Applicants must describe a locally determined strategy to carry out a proposed project with fundable objectives and activities.
- An application from a federally recognized Tribe, Alaska Native Village or Native American organization must be from the governing body of the Tribe or organization.
- ANA will not accept applications from tribal components which are tribally-authorized divisions of a larger Tribe, unless the application includes a tribal resolution which clearly demonstrates the Tribe's support of the project and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under the Native American languages program both for the current competition and for the duration of the approved grant period, should the application be funded.
- If a federally recognized Tribe or Alaska Native village chooses not to apply, it may support another applicant's project (*e.g.,* a tribal organization) which serves or impacts their reservation. In this case, the applicant must include a tribal resolution that clearly demonstrates the Tribe's approval of the project and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under the Native American languages program both for the current competition and for the duration of the approved grant period, should the application be funded.
- ANA will only accept one application that serves or impacts a reservation, Tribe, or Native American community.

• Any non-profit organization submitting an application must submit proof of its non-profit status in the application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax exempt organizations described in Section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

• If the applicant, other than a Tribe or an Alaska Native Village government, is proposing a project benefiting Native Americans or Native Alaskans, or both, it must provide assurance that its duly elected or appointed board of directors is representative of the community, to be served. To establish compliance with the requirement in the regulations for a Board representative of the community, applicants should provide information establishing that at least ninety (90) percent of the individuals serving on a non-profit applicant's board fall into one or more of the following categories: (1) a current or past member of the community to be served; (2) a prospective participant or beneficiary of the project to be funded; or (3) have a cultural relationship with the community to be served.

• Organizations incorporating in American Samoa are cautioned that the Samoan government relies exclusively upon IRS determinations of non-profit status; therefore, articles of incorporation approved by the Samoan government do not establish non-profit status for these organizations for the purpose of eligibility for ANA funds.

• Grantees must provide at least 20 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions. Therefore, a project requesting $100,000 in Federal funds must provide a match of at least $25,000 (20% of the total approved $125,000 project cost). Failure to provide the amount will result in disallowance of Federal match.

As per 45 CFR part 74.2, In-Kind contributions are defined as ''the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.''

In addition it may include other Federal funding sources where legislation or regulations authorize using specific types of funds for match; examples follow:

Indian Child Welfare funds, through the Department of Interior;

Indian Self-Determination and Education Assistance funds, through the Department of Interior and the Department of Health and Human Services; and

Community Development Block Grant funds, through the Department of Housing and Urban Development.

An itemized budget detailing the applicant's non-Federal share, and its source(s), must be included in an application.

If an applicant plans to charge or otherwise seek credit for indirect costs in its ANA application, a current copy of its Indirect Cost Agreement must be included in the application.

A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program Regulations.

Applications originating from American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands are covered under Section 501(d) of Public Law 95–134, as amended (48 U.S.C. 1469a) under which HHS waives any requirement for matching funds under $200,000 (including in-kind contributions). Therefore, for the grants under this Native American language program, no match is required for grants to these insular areas.

D. Proposed Projects To Be Funded

Category I—Planning Grants

The purpose of a Planning Grant is to conduct an assessment and to develop the plan needed to describe the current status of the language(s) to be addressed and to establish community long-range goal(s) to ensure its survival. Project activities may include, but are not limited to:

• Data collection, compilation, organization and description of current language status through a ''formal'' method (*e.g.* work performed by a linguist, and/or a language survey conducted by community members) or an ''informal'' method (*e.g.* a community consensus of the language status based on elders, tribal scholars, and/or other community members);

• Establishment of community long-range language goals; and

• Acquisition of necessary training and technical assistance to administer the project and achieve project goal(s).

Category II—Design and/or Implementation Grants

The purposes of Design and/or Implementation Grants are (1) so Tribes or communities may design and/or implement a language program to achieve their long-range goal(s); and (2) to accommodate where the Tribe or community is in reaching their long-term language goal(s).

Applicants under Category II must be able to document that:

(a) Language information has been collected and analyzed, and that it is current (compiled within 36 months prior to the grant application);

(b) The community has established long-range language goals; and

(c) Community representatives are adequately trained so that the proposed project goals can be achieved.

Category II applications may include purchasing specialized equipment (including audio and video recording equipment, computers, and software) necessary to achieve the project objectives. The applicant must fully justify the need for this equipment and explain how it will be used to achieve the project objectives. The types of projects ANA may fund under Category II include, but are not limited to:

• Establishment and support of a community Native American language project to bring older and younger Native Americans together to facilitate and encourage the teaching of Native American language skills from one generation to another;

• Establishment of a project to train Native Americans to teach Native American languages to others or to enable them to serve as interpreters or translators of such languages;

• Development, printing, and dissemination of materials to be used for the teaching and enhancement of Native American languages;

• Establishment or support of a project to train Native Americans to produce or participate in television or radio programs to be broadcast in Native American languages; and

• Compilation, transcription and analysis of oral testimony to record and preserve Native American languages

E. Eligible Applicants

The following organizations are eligible to apply under this competitive area:

• Federally recognized Indian Tribes;

• Consortia of Indian Tribes;

• Incorporated non-federally recognized Tribes;

• Incorporated nonprofit multi-purpose community-based Indian organizations;

• Urban Indian Centers;
• National or regional incorporated nonprofit Native American organizations with Native American community-specific objectives;
• Alaska Native villages as defined in the Alaska Native Claims Settlement Act (ANCSA) and/or nonprofit village consortia;
• Incorporated nonprofit Alaska Native multi-purpose community-based organizations;
• Nonprofit Alaska Native Regional Corporations/Associations in Alaska with village specific projects;
• Nonprofit Native organizations in Alaska with village specific projects;
• Public and nonprofit private agencies serving Native Hawaiians (The populations served may be located on these islands or on the continental United States);
• Public and nonprofit private agencies serving native peoples from Guam, American Samoa, Palau, or the Commonwealth of the Northern Mariana Islands. The populations served may be located on these islands or in the United States; and
• Tribally controlled community colleges, tribally controlled post-secondary vocational institutions; and,
• Native controlled colleges and universities located in Hawaii, Guam, American Samoa, Palau, or the Commonwealth of the Northern Mariana Islands which serve Native American Pacific Islanders.
• Non-profit Alaska Native community entities or tribal governing bodies (Indian Reorganization Act or traditional Councils) as recognized by the Bureau of Indian Affairs.
Further information on eligibility requirements is presented in Part I–C. ANA Program and Administrative Policy. Some important policies found in Part I are highlighted as follows:

Current ANA Native American language grantees whose grant project period ends on or before September 30, 2001 are eligible to apply for a grant award under this program announcement. The Project Period is noted in Block 9 of the ''Financial Assistance Award'' document. Applicants for new grants may not have a pending request to extend their existing grant beyond September 30, 2001.

Any non-profit organization submitting an application must submit proof of its non-profit status in the application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax exempt organizations described in Section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State or Tribe in which the corporation or association is domiciled.

If the applicant, other than a Tribe or an Alaska Native Village government, is proposing a project benefiting Native Americans or Alaska Natives, or both, it must provide assurance that its duly elected or appointed board of directors is representative of the community, to be served. To establish compliance with the requirement in the regulations for a Board representative of the community applicants should provide information establishing that at least ninety (90) percent of the individuals serving on a non-profit applicant's board fall into one or more of the following categories: (1) A current or past member of the community to be served; (2) a prospective participant or beneficiary of the project to be funded; or (3) have a cultural relationship with the community to be served. A list of board members with this information including tribal or Village affiliation, is one of the most suitable approaches for demonstrating compliance with this requirement.

Under each competitive area, ANA will only accept one application that serves or impacts a reservation, Tribe, or Native American community. If a federally recognized Tribe or Alaska Native village chooses not to apply, it may support another applicant's project (*e.g.,* a tribal organization) which serves or impacts their reservation. In this case, the applicant must include a tribal resolution which clearly demonstrates the Tribe's approval of the project and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under that specific competitive area both for the current competition and for the duration of the approved grant period.

Participating Organizations: If a tribal organization, or other eligible applicant, decides that the objective of its proposed Native American language project would be accomplished more effectively through a partnership arrangement with a tribal school, college, or university, the applicant shall identify such school, college or university as a participating organization in its application. Under a partnership agreement, the applicant will be responsible for the fiscal, administrative and programmatic management of the grant.

F. Grantee Share of the Project

Grantees must provide at least 20 percent of the total approved cost of the project. The total approved cost of the project is the sum of the Federal share and the non-Federal share. Further information on this requirement is presented in Part I–C. ANA Program and Administrative Policy.

Applications originating from American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands are covered under Section 501(d) of Public Law 95–134, as amended (78 U.S.C. 1469a) under which HHS waives any requirement for matching funds under $200,000 (including in-kind contributions). Therefore, for the ANA grants under these announced programs, no match is required for grants to these insular areas.

G. Review Criteria

The proposed project should address the purposes of the Native American languages stated and described in the section I.B, ''Background'' of this announcement.

The evaluation criteria below are closely inter-related. Points are awarded only to applications which respond to these criteria. Proposed projects will be reviewed on a competitive basis using the following separate sets of evaluation criteria; one set for planning grant applications, the other for design and/or implementation grant applications:

H. Planning Grants

(1) Current Status of Native American Language(s) (15 points)

The application fully describes the current status of Native American language(s) in the community. Since obtaining this data may be part of the planning grant application being reviewed, applicants can meet this requirement by explaining their current language status and providing a detailed description of any circumstances or barriers which have prevented the collection of community language data. If documentation exists, describe it in terms of current language status.

(2) Goals and Available Resources (25 points)

The application describes the proposed project's long-range goals and strategies, including:

• How the specific Native American long-range community goal(s) relate to the proposed project; and
• How the goal(s) fit within the context of the current language status.

(b) The application explains how the community and the tribal government

(where one exists) intends to achieve these goals. The type of community served will determine the type of documentation necessary to demonstrate participation. All Tribes and communities, however, must indicate in their application how they intend to involve elders and other community members in their projects and include them in development of language goals and strategies and in evaluation of project outcomes. Ways to demonstrate community and tribal government support for the project include:

- A resolution from Tribes or tribal organizations stating that community involvement has occurred in project planning;
- Community surveys and questionnaires, including those developed to determine the level of community support for tribal resolutions; and
- Minutes of community meetings, tribal presentations and discussion forums;

Applications from National Indian and Native organizations must clearly demonstrate a need for the project, explain how the project was originated, state who the intended beneficiaries will be, and describe how the recipients will actually benefit from the project. National Indian and Native organizations should describe their membership and define how the organization operates.

(c) Available resources (other than ANA and the non-federal share) which will assist and be coordinated with the project are described. These resources should be documented by letters of commitment of resources, and not ''letters of support''.

- ''Letters of support'' merely express another organization's endorsement of a proposed project. Such support letters and related documentation do not indicate a binding commitment, do not establish the authenticity of other resources, and do not offer or bind specific resources to the project.
- ''Letters of commitment'' are binding and specify the nature, amount and conditions under which another agency or organization will support a project funded with ANA funds. These resources may be human, natural or financial, and may include other Federal and non-Federal resources. Applicant statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resources.
- Non-ANA resources should be leveraged to strengthen and broaden the impact of the proposed project in the community. Project designs should explain how those parts of projects which ANA does not fund will be financed through other sources. For example, ANA does not fund construction. Applicants must show the relationship of non-ANA funded activities to those objectives and activities that are funded with ANA grant funds.

If the applicant proposes to enter into a partnership arrangement with a school, college or university, documentation of this commitment must be included in the application.

(3) Project Objectives, Approach and Activities (30 points)

The proposed objectives in the Objective Work Plan(s) relate to the goal to ensure the survival and continuing vitality of Native American language(s). More specifically, together they will achieve for the Tribe or community's language goals for the proposed project. Each Objective Work Plan clearly describes:

- The tribal government's and community's active involvement in the continuing participation of Native American language speakers;
- Measurable or quantifiable results or outcomes;
- How the results or outcomes relate to the community's long-range goals or the establishment of those goals;
- How the project can be accomplished with the available or expected resources during the project period;
- How the main activities will be accomplished;
- Who specifically will conduct the activities under each objective; and
- What the next steps may be after the Planning project is completed.

(4) Organizational capabilities/ Qualifications (20 points)

(a) The management and administrative structure of the applicant is explained. Evidence of the applicant's ability to manage a project of the proposed scope is well defined. The application clearly demonstrates the successful management of projects of similar scope by the organization and or by the individual designated to manage the project.

(b) Position descriptions and/or resumes of key personnel, including those of consultants, are presented. The position descriptions and/or resumes relate specifically to the staff proposed in the Approach Page and in the proposed budget of the application. Position descriptions very clearly describe the position and its duties and clearly relate to the personnel staffing required to achieve the project objectives. Resumes demonstrate that the proposed staff are qualified to carry out the proposed activities. Either the position descriptions or the resumes contain the qualifications, and/or specialized skills, necessary for overall quality management of the project. Resumes must be included if individuals have been identified for positions in the application.

Note: Applicants are encouraged to give preference to Native Americans in hiring staff and contracting services under an approved ANA grant.

(5) Budget (10 points)

A detailed and fully explained budget is provided for each budget period requested which:

- Identifies and explains each line item, with a well-written justification, in the budget categories in Section B of the Budget Information of the application, including the applicant's non-Federal share and its source. Applicants from American Samoa, Guam, and the Northern Mariana Islands are not required to provide a 20% match for the non-Federal share since the level of funding available for the grants would not invoke a required match for grants to these insular areas. Therefore, applicants from these insular areas may not have points reduced for the lack of matching funds. They are, however, expected to coordinate and organize the delivery of any non-ANA resources they propose for the project, as are all ANA applicants.
- Includes and justifies sufficient cost and other necessary details to facilitate the determination of cost allowability and the relevance of these costs to the proposed project; and
- Requests funds which are appropriate and necessary for the scope of the proposed project.
- Includes sufficient funds for principal representatives from the applicant organization to travel to one post-award grant training and technical assistance conference. This expenditure is mandatory for new grantees and optional for grantees that have had an ANA grant in the past. This travel and training should occur as soon as practical.
- Where implemented, includes an employee fringe benefit budget that provides grant-funded employees with a retirement plan in addition to Social Security. The applicant is strongly encouraged to provide a retirement plan fringe benefit for grant-funded employees' salaries up to five (5) percent.

ANA supports a retirement plan to be a necessary, reasonable and allowable cost in accordance with OMB rules.

Minimum standards for an acceptable retirement fringe benefit plan are:

- The plan exists for the exclusive benefit of the participants; funds are to be used for retirement and certain other pre-retirement needs, not for the organization's needs.
- The plan must have a vesting schedule that does not exceed the initial budget period of the ANA grant.
- An alternate proposal may be submitted for review and approval during grant award negotiations. Alternate proposals may include the use of Individual Retirement Accounts, Money Purchase Pension Plans, Defined Benefit Pension Plans, Combination Plans, etc.

II. Design and/or Implementation Grants

(1) Current Status of Native American language(s) (10 points)

(a) The application fully describes the current status of the Native American language to be addressed; current status is defined as data compiled within the previous 48 months. The description of the current status minimally includes the following information:

- Number of speakers.
- Age of speakers.
- Gender of speakers.
- Level(s) of fluency.
- Number of first language speakers (Native language as the first language acquired).
- Number of second language speakers (Native language as the second language acquired).
- Where Native language is used (*e.g.* home, court system, religious ceremonies; church, media, school, governance and cultural activities).
- Source of data (formal and/or informal).
- Rate of language loss or gain.

(b) The application fully describes existing community language or language training programs and projects, if any, in support of the Native American language to be addressed by the proposed project. Existing programs and projects may be formal (*e.g.,* work by a linguist, and/or language survey conducted by community members) or ''informal'' (*e.g.,* a community consensus of the language status based on elders, tribal scholars, and/or other community members).

The description should answer the following: (1) Has applicant had a community language or language training program within the last 48 months? (2) Within the last 10 years? If so, fully describe the program(s), and include the following:

- Program goals.
- Number of program participants.
- Number of speakers.
- Age range of participants (*e.g.,* 0–5, 6–10, 11–18, etc.).
- Number of language teachers.
- Criteria used to acknowledge competency of language teachers.
- Resources available to the applicant (*e.g.* valid grammars, dictionaries, and orthographies or describe other suitable resources).
- Program achievements.

If applicant has never had a language program, a detailed explanation of what barriers or circumstances prevented the establishment of a community language program should be included.

(2) Goals and Available Resources (20 points)

(a) The application describes the proposed project's long-range goals and strategies, including:

- How the specific Native American long-range community goal(s) relate to the proposed project; and
- How the goal(s) fit within the context of the current language status;
- A clearly delineated strategy to assist in assuring the survival and continued vitality of the Native American languages addressed in the community.

(b) The application explains how the community and the tribal government (where one exists) intend to achieve these goals. The type of community served will determine the type of documentation necessary to demonstrate participation. All Tribes and communities, however, must indicate in their application how they intend to involve elders and other community members in their projects and include them in development of language goals and strategies and in evaluation of project outcomes. Ways to demonstrate community and tribal government support for the project include:

- A resolution from Tribes or tribal organizations stating that community involvement has occurred in project planning;
- Community surveys and questionnaires, including those developed to determine the level of community support for tribal resolutions; and
- Minutes of community meetings, tribal presentations and discussion forums.

Applications from National Indian and Native organizations must clearly demonstrate a need for the project, explain how the project was originated, state who the intended beneficiaries will be, and describe how the recipients will actually benefit from the project. National Indian and Native organizations should describe their membership and define how the organization operates.

(c) Available resources (other than ANA and the non-federal share) which will assist and be coordinated with the project are described. These resources should be documented by letters of commitment of resources, and not ''letters of support''.

- ''Letters of support'' merely express another organization's endorsement of a proposed project. Such support letters and related documentation do not indicate a binding commitment, do not establish the authenticity of other resources, and do not offer or bind specific resources to the project.
- ''Letters of commitment'' are binding and specify the nature, amount and conditions under which another agency or organization will support a project funded with ANA funds. These resources may be human, natural or financial, and may include other Federal and non-Federal resources. Applicant statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resources.
- Non-ANA resources should be leveraged to strengthen and broaden the impact of the proposed project in the community. Project designs should explain how those parts of projects which ANA does not fund will be financed through other sources. For example, ANA does not fund construction. Applicants must show the relationship of non-ANA funded activities to those objectives and activities that are funded with ANA grant funds.

If the applicant proposes to enter into a partnership arrangement with a school, college or university, documentation of this commitment must be included in the application.

(3) Project Objectives, Approach and Activities (30 points)

The proposed objectives in the Objective Work Plan(s) relate to the goal to ensure the survival and continuing vitality of Native American language(s). More specifically, together they will achieve for the Tribe or community's language goals for the proposed project. If the project is for more than one year, the application includes Objective Work Plans for each year (budget period) proposed. Each Objective Work Plan clearly describes:

- The tribal government's and community's active involvement in the continuing participation of Native American language speakers;

• Measurable or quantifiable results or outcomes;
• How they relate to the community's long-range goals or the establishment of those goals;
• How the project can be accomplished with the available or expected resources during the project period;
• How the main activities will be accomplished;
• Who specifically will conduct the activities under each objective; and
• How the project will be completed, become self-sustaining, or be financed by other than ANA funds at the end of the project period.

(4) Organizational capabilities/ Qualifications (15 points)

The management and administrative structure of the applicant is explained. Evidence of the applicant's ability to manage a project of the proposed scope is well defined. The application clearly demonstrates the successful management of projects of similar scope by the organization and or by the individual designated to manage the project.

Position descriptions and/or resumes of key personnel, including those of consultants, are presented. The position descriptions and/or resumes relate specifically to the staff proposed in the Approach Page and in the proposed budget of the application. Position descriptions very clearly describe the position and it's duties and clearly relate to the personnel staffing required to achieve the project objectives. Resumes demonstrate that the proposed staff are qualified to carry out the proposed activities. Either the position descriptions or the resumes contain the qualifications, and/or specialized skills, necessary for overall quality management of the project. Resumes must be included if individuals have been identified for positions in the application.

Note: Applicants are encouraged to give preference to Native Americans in hiring staff and contracting services under an approved ANA grant.

(5) Budget (10 points)

A detailed and fully explained budget is provided for each budget period requested which:

Identifies and explains each line item, with a well-written justification, in the budget categories in Section B of the Budget Information of the application, including the applicant's non-Federal share and its source. Applicants from American Samoa, Guam, and the Northern Mariana Islands are not required to provide a 20% match for the non-Federal share since the level of funding available for the grants would not invoke a required match for grants to these insular areas. Therefore, applicants from these insular areas may not have points reduced for the lack of matching funds. They are, however, expected to coordinate and organize the delivery of any non-ANA resources they propose for the project, as are all ANA applicants.

Includes and justifies sufficient cost and other necessary details to facilitate the determination of cost allowability and the relevance of these costs to the proposed project.

Requests funds that are appropriate and necessary for the scope of the proposed project.

Includes sufficient funds for principal representatives from the applicant organization to travel to one post-award grant training and technical assistance conference. This expenditure is mandatory for new grant recipients and optional for grantees that have had ANA grants in the past. This travel and training should occur as soon as practical.

Where implemented, includes an employee fringe benefit budget that provides grant-funded employees with a retirement plan in addition to Social Security. The applicant is strongly encouraged to provide a retirement plan fringe benefit for grant-funded employees' salaries up to five (5) percent.

ANA supports a retirement plan to be a necessary, reasonable and allowable cost in accordance with OMB rules. Minimum standards for an acceptable retirement fringe benefit plan are:

• The plan exists for the exclusive benefit of the participants; funds are to be used for retirement and certain other pre-retirement needs, not for the organization's needs.
• The plan must have a vesting schedule that does not exceed the initial budget period of the ANA grant.
• An alternate proposal may be submitted for review and approval during grant award negotiations. Alternate proposals may include the use of Individual Retirement Accounts, Money Purchase Pension Plans, Defined Benefit Pension Plans, Combination Plans, etc..

(6) Evaluation, Sharing and Preservation Plans (15 points)

The application should include the following three plans:

• An ''evaluation plan'' with a baseline to measure project outcomes, including, but not limited to, describing effective language growth in the community (*e.g.,* an increase of Native American language use). This plan will be the basis for evaluating the community's progress in achieving its language goals and objectives.

• A ''sharing plan'' that identifies how the project's methodology, research data, outcomes or other products can be shared and modified for use by other Tribes or communities. If this is not feasible or culturally appropriate, provide the reasons. The goal is to provide opportunities to ensure the survival and the continuing vitality of Native languages.

• A ''plan to preserve project products'' describes how the products of the project will be preserved through archival or other culturally appropriate methods, for the benefit of future generations.

I. Application Due Date

The closing date for submission of applications under this program announcement is March 16, 2001.

J. For Further Information Contact

Sheila Cooper, Native American Program Specialist, Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, 370 L'Enfant Promenade, Mail Stop HHH 348F, Washington, D.C. 20447, telephone: (202) 690–5787 or 1–877–922–9262; telefax: 202–690–7441; e-mail: scooper@acf.dhhs.gov.

Part II: General Guidance to Applicants

The following is provided to assist applicants to develop a competitive application.

A. Definitions

• ''Language preservation'' is the maintenance of a language so that it will not decline into non-use.

• ''Language vitality'' is the active use of a language in a wide range of domains of human life.

• ''Language replication'' is the application of a language program model developed in one community to other linguistically similar communities.

• ''Language survival'' is the maintenance and continuation of language from one generation to another in a wide range of aspects of community life.

• ''Multi-purpose community-based Native American organization'' is an association and/or corporation whose charter specifies that the community designates the Board of Directors and/or officers of the organization through an elective procedure and that the organization functions in several different areas of concern to the members of the local Native American

community. These areas are specified in the by-laws and/or policies adopted by the organization. They may include, but need not be limited to, economic, artistic, cultural, and recreational activities, and the delivery of human services such as health care, day care, counseling, education, and training.

• ''Multi-year project'' is a project on a single theme that requires more than 12 months to complete and affords the applicant an opportunity to develop and address more complex and in-depth strategies than can be completed in one year. A multi-year project cannot be a series of unrelated objectives with activities presented in chronological order over a two or three year period.

• ''Budget Period'' is the interval of time (usually 12 months) into which the project period is divided for budgetary and funding purposes.

• ''Core administration'' is funding for staff salaries for those functions that support the organization as a whole, or for purposes unrelated to the actual management or implementation of work conducted under an ANA approved project. However, functions and activities that are clearly project related are eligible for grant funding. For example, the management and administrative functions necessary to carry out an ANA approved project are not considered ''core administration'' and are, therefore, eligible costs. Additionally, ANA will fund the salaries of approved staff for time actually and reasonably spent to implement a funded ANA project.

• ''Real Property'' means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

• ''Construction'' is the term that specifies a project supported through a discretionary grant or cooperative agreement, to support the initial building of a facility.

B. Activities That Cannot Be Funded

The Administration for Native Americans does not fund:

• Projects that operate indefinitely or require ANA funding on a recurring basis.

• Projects in which a grantee would provide training and/or technical assistance (T/TA) to other Tribes or Native American organizations which are otherwise eligible to apply to ANA (''third party T/TA''). However, the purchase of T/TA by a grantee for its own use or for its members' use (as in the case of a consortium), where T/TA is necessary to carry out project objectives is acceptable.

• The support of on-going social service delivery programs or the expansion, or continuation, of existing social service delivery programs.

• ANA will not fund the purchase of real property.

• ANA will not fund construction.

• ANA will not fund objectives or activities for the support of core administration of an organization.

• Costs of fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable under a grant award. However, even though these costs are unallowable for purposes of computing charges to Federal awards, they must be treated as direct costs for purposes of determining indirect cost rates. They must also be allocated their share of the organization's indirect costs if they represent activities which: (1) Include the salaries of personnel; (2) occupy space; and (3) benefit from the organization's indirect costs.

Projects or activities that generally will not meet the purposes of this announcement are discussed further in Section H, ''General Guidance to Applicants'', below.

C. Multi-Year Projects

Only Category II ''Design and/or Implementation'' projects may be developed as multi-year projects, *i.e.* for up to three years. The information in this section is not applicable to Category I, planning projects.

A multi-year project is a project on a single theme that requires more than 12 to 17 months to complete. It affords the applicant an opportunity to develop and address more complex and in-depth strategies. A multi-year project cannot be a series of unrelated objectives with activities presented in chronological order over a two or three year period. Initial awards, on a competitive basis, will be for a one-year budget period (up to 17 months), although project periods may be for three years.

Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under these awards beyond the one-year budget period, but within a two-to-three year project period, will be funded in subsequent years on a non-competitive basis. Continuation grants are subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the Government. Therefore, this program announcement does not apply to current ANA grantees with multi-year projects that apply for continuation funding for their second or third year budget periods.

D. Intergovernmental Review of Federal Programs

Executive Order 12372 or 45 CFR Part 100 does not cover this program.

E. The Application Process

1. Application Submission by Mail

One signed original, and two copies, of the grant application, including all attachments, must be mailed on or before the closing date to: U.S. Department of Health and Human Services, Administration for Children and Families, ACYF/Office of Grants Management, 370 L'Enfant Promenade, SW, Mail Stop HHH 326–F, Washington, DC 20447–0002, Attention: Lois B. Hodge, ANA No. 93612–992.

2. Application Submission by Courier

Applications hand-carried by applicants, applicant couriers, or by overnight express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:00 p.m. at: U.S. Department of Health and Human Services, Administration for Children and Families, ACYF/Office of Grants Management, ACF Mail Room, Second Floor Loading Dock, Aerospace Center, 901 D Street, SW, Washington, DC 20024, Attention: Lois B. Hodge, ANA No. 93612–992.

3. Application Consideration

The ANA Commissioner determines the final action to be taken on each grant application received under this program announcement.

All applicants should take the following points into consideration:

• Incomplete applications and applications that do not conform to this announcement will not be accepted for review. Applicants will be notified in writing of any such determination by ACF. An incomplete application is one that is:

• Missing Form SF 424.

• Does not have a signature on Form SF 424.

• Does not include proof of non-profit status, if applicable.

• The application (Form 424) must be signed by an individual authorized (1) to act for the applicant Tribe or organization, and (2) to assume the applicant's obligations under the terms and conditions of the grant award, including Native American Program statutory and regulatory requirements.

• Complete applications that conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process. Independent review panels consisting of reviewers familiar with American Indian Tribes and Native American communities and organizations, and Native American languages evaluate each application using the published criteria in this announcement. As a result of the review, a normalized numerical score will be assigned to each application.

• Each Tribe, Native American organization, or other eligible applicant may compete for one grant award under this program announcement.

• The Administration for Native Americans will accept only one application for this program announcement from any one applicant. If an eligible applicant sends in two applications for this program announcement, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.

• The Commissioner's funding decision is based on the review panel's analysis of the application, recommendation and comments of ANA staff, State and Federal agencies having contract and grant performance related information, and other interested parties.

• The Commissioner makes grant awards consistent with the purpose of the Act, all relevant statutory and requires this program announcement, and the availability of funds.

• Successful applicants are notified through an official Financial Assistance Award (FAA) document. The FAA will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, and the amount of the non-ACF matching share requirement.

F. The Review Process

1. Initial Application Review

Applications submitted by the closing date and verified by the postmark under this program announcement will undergo a pre-review to determine that:

• The applicant is eligible in accordance with the Eligible Applicants Section of this announcement; and,

• the application is signed and submitted by the deadline; and,

• the application narrative, forms and materials submitted are adequate to allow the review panel to undertake an in depth evaluation and the project described is an allowable type. (All required materials and forms are listed in the Grant Application Checklist in the Application Kit).

Applications subjected to the pre-review described above which fail to satisfy one or more of the listed requirements will be ineligible or otherwise excluded from competitive evaluation.

2. Competitive Review of Accepted Applications

Applications which pass the pre-review will be evaluated and rated by an independent review panel on the basis of the specific evaluation criteria listed in Part II. These criteria are used to evaluate the quality of a proposed project, and to determine the likelihood of its success.

• ANA staff cannot respond to requests for information regarding funding decisions prior to the official notification to the applicants.

• After the Commissioner has made decisions on all applications funded with fiscal year 2000 funds, unsuccessful applicants are notified in writing within 30 days. The notification will be accompanied by a critique including recommendations for improving the application.

3. Appeal of Ineligibility

Applicants, who are initially excluded from competitive evaluation because of ineligibility, may appeal the ANA decision of their ineligibility. Likewise, applicants may also appeal an ANA decision that their proposed activities are ineligible for funding consideration. The appeals process is stated in the final rule published in the **Federal Register** on August 19, 1996 (61 FR 42817).

G. General Guidance to Applicants

The following information is provided to assist applicants in developing a competitive application.

1. Program Guidance

• The Administration for Native Americans funds projects that demonstrate the strongest prospects for addressing the stated purposes of this program announcement.

• Projects will not be ranked on the basis of general financial need.

• In discussing the goals, strategy, and problems being addressed in the application, include sufficient background and/or history of the community concerning these issues and/or progress to date, as well as the size of the population to be served. This material will assist the reviewers in determining the appropriateness and potential benefits of the proposed project.

• In the discussion of community-based, long-range goals, non-Federally recognized and off-reservation groups are encouraged to include a description of what constitutes their specific ''community.''

• Applicants must document the community's support for the proposed project and explain the role of the community in the planning process and implementation of the proposed project. For Tribes, a current signed resolution from the governing body of the Tribe supporting the project proposal stating that there has been community involvement in the planning of this project will suffice as evidence of community support/involvement. For all other eligible applicants, the type of community you serve will determine the type of documentation necessary. For example, a tribal organization may submit resolutions supporting the project proposal from each of its members Tribes, as well as a resolution from the applicant organization. Other examples of documentation include: community surveys; minutes of community meetings; questionnaires; tribal presentations; and/or discussion/position papers.

• Applications from National Indian and Native American organizations must demonstrate a need for the project, explain how the project was originated, state who the intended beneficiaries will be, and describe how the recipients will actually benefit from the project.

• An application should describe a clear relationship between the proposed project, language goals, and the community's long-range goals or plan.

• The project application, including the Objective Work Plans, must clearly identify in measurable terms the expected results, benefits or outcomes of the proposed project, and the positive or continuing impact that the project will have on the community.

• Supporting documentation, including letters of support, if available, or other testimonies from concerned interests other than the applicant should be included to demonstrate support for the feasibility of the project and the commitment of other resources to the proposed project.

• In the ANA Project Narrative, Section A of the application package, ''Resources Available to the Proposed Project,'' the applicant should describe any specific financial circumstances that may impact on the project. Include such circumstances as any monetary or land settlements made to the applicant and any restrictions on the use of those settlements. When the applicant appears

to have other resources to support the proposed project and chooses not to use them, the applicant should explain why it is seeking ANA funds and not utilizing these resources for the project.

• Applications that were not funded under a previous years-closing date may be resubmitted. However, for resubmission applicants should make a reference to the changes or reasons for not making changes in their current ANA application which are based on the ANA panel review comments.

2. Technical Guidance

It is strongly suggested that the applicant follow the Supplemental Guide included in the ANA application kit to develop an application. The Guide provides practical information and helpful suggestions, and is an aid to help applicants prepare ANA applications.

• Applicants are encouraged to have someone other than the author apply the evaluation criteria in the program announcement and score the application prior to its submission, in order to gain a better sense of the application's quality and potential competitiveness in the ANA review process.

• For purposes of developing an application, applicants should plan for a project start date approximately 120 days after the closing date under which the application is submitted.

• The Administration for Native Americans will not fund essentially identical projects serving the same constituency.

• If a project could be supported by other Federal funding sources, the applicant should fully explain its reasons for not pursuing other Federal funds for the project.

• For purposes of this announcement, ANA is using the Bureau of Indian Affairs' list of federally recognized Indian Tribes which includes nonprofit Alaska Native community entities or tribal governing bodies (IRA or traditional councils). Other federally recognized Indian Tribes, which are not included on this list (*e.g.,* those Tribes that have been recently recognized or restored by the United States Congress), are also eligible to apply for ANA funds.

• The Objective Work Plan proposed should be of sufficient detail to become a monthly staff guide for project responsibilities if the applicant is funded.

• Applicants proposing multi-year projects under Category II must fully describe each year's project objectives and activities. Separate Objective Work Plans (OWPs) must be presented for each project year and a separate itemized budget of the Federal and non-Federal costs of the project for each budget period must be included.

• Applicants for multi-year projects under Category II must justify the entire time-frame of the project (*i.e.,* why the project needs funding for more than one year) and clearly describe the results to be achieved for each objective by the end of each budget period of the total project period.

• The Administration for Native Americans will critically evaluate applications in which the acquisition of equipment is a major component of the Federal share of the budget. ''Equipment is tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or month per ''unit.'' During negotiation, ANA may delete such expenditures from the budget of an otherwise approved application, if not fully justified by the applicant and deemed not appropriate to the needs of the project.

• Applicants are encouraged to request a legibly dated receipt from a commercial carrier or U.S. Postal Service as proof of timely mailing.

3. Grant Administrative Guidance

• The application's Form 424 must be signed by the applicant's representative authorized to act with full authority on behalf of the applicant.

• The Administration for Native Americans recommends that the pages of the application be numbered sequentially and that a table of contents and tabbing of the sections is provided.

• An application with an original signature and two additional copies are required.

• The Cover Page (included in the Kit) should be the first page of an application, followed by the one-page abstract.

• The applicant should specify the entire project period length on the first page of the Form 424, Block 13, not the length of the first budget period. Should the application propose one length of project period and the Form 424 specify a conflicting length of project period, ANA will consider the project period specified on the Form 424 as the request. ANA may negotiate a reduction of the project period. The approved project period is shown on block 9 of a Financial Assistance Award.

• Line 15a of the Form 424 must specify the Federal funds requested for the first Budget Period, not the entire project period.

• Applicants may propose up to a 17-month project period under Category I and up to a 36-month project period under Category II.

4. Projects or Activities that Generally Will Not Meet the Purposes of this Announcement

• Core administration functions, or other activities, which essentially support only the applicant's ongoing administrative functions.

• Project goals which are not responsive to this program announcement.

• Proposals from consortia of Tribes that are not specific with regard to support from, and roles of, member Tribes. ANA expects an application from a consortium to have goals and objectives that will create positive impacts and outcomes in the communities of its members. Proposals from consortia of Tribes should have individual objectives that are related to the larger goal of the proposed project. Project objectives may be tailored to each consortia member, but within the context of a common goal for the consortia. In situations where both tribal consortia and a Tribe who belongs to the consortia receives ANA funding, ANA expects that consortia groups will not seek funding that duplicates activities being conducted by their member Tribes.

• Projects that will not be completed, self-sustaining, or supported by other than ANA funds, at the end of the project period. All projects funded by ANA must be completed, or self-sustaining or supported with other than ANA funds at the end of the project period. ''Completed'' means that the project ANA funded is finished, and the desired result(s) have been attained. ''Self-sustaining'' means that a project will continue without outside resources. ''Supported by other than ANA funds'' means that the project will continue beyond the ANA project period, but will be supported by funds other than ANA's.

• Renovation or alteration unless it is essential for the project. Renovation or alteration costs may not exceed the lesser of $150,000 or 25 percent of the total direct costs approved for the entire budget period.

• Projects originated and designed by consultants who provide a major role for themselves in the proposed project and are not members of the applicant organization, Tribe or village.

H. Paperwork Reduction Act of 1995 (Public Law 10413)

The Program Narrative information collection with this Program Announcement is approved under 0980–0204, Expiration Date 04/30/2003.

Public reporting burden for this collection of information is estimated to

average 29.5 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

I. Receipt of Applications

Applications must either be hand delivered or mailed to the address in Section E, The Application Process. The Administration for Native Americans cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ANA electronically will not be accepted regardless of date or time of submission and time of receipt. Videotapes and cassette tapes may not be included as part of a grant application for panel review.

Applications and related materials postmarked after the closing date will be classified as late.

1. Deadlines

• Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, ACYF/Office of Grants Management, 370 L'Enfant Promenade, SW, Mail Stop HHH 326–F, Washington, D.C. 20447–0002. Attention: Lois B. Hodge ANA No. 93612–992.

• Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

• Applications hand carried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date or postmarked on or before the deadline date, Monday through Friday (excluding Federal holidays), between the hours of 8:00 am and 4:30 p.m. at: U.S. Department of Health and Human Services, Administration for Children and Families, ACYF/Office of Grants Management, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, SW, Washington, D.C. 20024. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

• ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

• No additional material will be accepted, or added to an application, unless it is postmarked by the deadline date.

2. Late applications

Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

3. Extension of deadlines

The Administration for Children and Families may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, or when there is a widespread disruption of the mails. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

(Catalog of Federal Domestic Assistance Program Numbers: 93.612 Native American Programs; and 93.587 Promoting the Survival and Continuing Vitality of Native American languages)

Dated: October 3, 2001.

Gary Mounts,

Acting Commissioner, Administration for Native Americans.

[FR Doc. 00–27708 Filed 10–27–00; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1426]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Emergency Health Surveys

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by November 29, 2000.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Emergency Health Surveys

Under section 519 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360(i)), FDA is authorized to require: (1) Manufacturers to report medical-device-related deaths, serious injuries, and malfunctions; and (2) user facilities to report device-related deaths directly to FDA and to manufacturers, and to report serious injuries to the manufacturer. Section 522 of the act (21 U.S.C. 360(l)) authorizes FDA to require manufacturers to conduct postmarket surveillance of medical devices. Section 705(b) of the act (21 U.S.C. 375(b)) authorizes FDA to collect and disseminate information regarding medical products or cosmetics in situations involving imminent danger to health or gross deception of the consumer. Section 903(b)(2) of the act (21 U.S.C. 393(b)(2)) authorizes the Commissioner of Food and Drugs (the Commissioner) to implement general powers (including conducting research) to effectively carry out the mission of FDA. These sections of the act enable FDA to enhance consumer protection from risks associated with medical device usage that are not foreseen or apparent during the premarket notification and review process. Currently FDA monitors medical product related postmarket adverse events via both the mandatory and voluntary MedWatch Reporting Systems using FDA Forms 3500 and 3500A (OMB Control No. 0910–0281).

FDA is seeking OMB clearance to collect information via a series of surveys, thus implementing section 705(b) of the act and the Commissioner's authority as specified in section 903(b)(2) of the act. Participation in these surveys will be voluntary. This request covers

emergency health surveys for general type medical facilities; specialized medical facilities (those known for cardiac surgery, obstetrics/gynecology services, pediatric services, etc.); and health professionals, but more typically risk managers working in medical facilities.

FDA will use the information gathered from these surveys to quickly obtain vital information from the appropriate clinical sources so that FDA may take appropriate public health or regulatory action. FDA projects 10 emergency health surveys per year with a sample of between 50 and 200 respondents per survey.

In the **Federal Register** of August 3, 2000 (65 FR 47734), the agency requested comments on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
200	10 (maximum)	2,000	2	4,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

These estimates are based on the maximum sample size per questionnaire that FDA could analyze in a timely manner. The annual frequency of respondent was determined by the maximum number of questionnaires that will be sent to any individual respondent. Some respondents may be contacted only one time per year, while another respondent may be contacted several times, depending on the medical device under evaluation. It is estimated that, given the expected type of issues that will be addressed by the surveys, at a maximum it will take 2 hours for a respondent to gather the requested information and fill in the answers.

Dated: October 23, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–27733 Filed 10–27–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4561–N–70]

Notice of Submission of Proposed Information Collection to OMB; Financial Statement of Corporate Applicant for Cooperative Housing Mortgage

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 29, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0058) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll- (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone umber of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Financial Statement of Corporate Applicant for Cooperative Housing Mortgage.

OMB Approval Number: HUD–93232–A.

Description of The Need For The Information and Its Proposed Use: HUD insures mortgages covering property held by a non-profit cooperative ownership housing cooperation. The Department requires information on the applicant's financial and credit history to determine the capability and capacity of the borrower corporation and the individual members to meet the statutory requirement for repayment.

Frequency of Submission: Monthly.

Reporting Burden:

Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
1,500		1		2		3,000

Total Estimated Burden Hours: 3,000.
Status: Reinstatement, with change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 24, 2000

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 00–27710 Filed 10–27–00; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

Solicitation of Public Comments on Systemic Risk

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Solicitation of public comments.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is soliciting comments on systemic risk. To fulfill its supervisory responsibilities, OFHEO has initiated a comprehensive study of the risks the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) may pose to the financial system in general and to U.S. housing finance markets in particular. The study will examine the nature and magnitude of any risks posed by the Enterprises, whether and to what extent Fannie Mae and Freddie Mac contribute to or mitigate systemic risk, and actions that OFHEO and others could take to limit any systemic risk the Enterprises may pose. The purpose of this notice is to solicit public comment on specific research questions that the study may address.

DATES: Written comments regarding systemic risk due by December 29, 2000.

ADDRESSES: Send written comments to Robert S. Seiler, Jr., Manager of Policy Analysis, Office of Federal Housing Enterprise Oversight, 1700 G Street, N.W., Fourth Floor, Washington, D.C. 20552. Written comments may also be sent by electronic mail to *sysrisk@ofheo.gov.*

FOR FURTHER INFORMATION CONTACT: Robert S. Seiler, Jr., Manager of Policy Analysis, Office of Federal Housing Enterprise Oversight, 1700 G Street, N.W., Fourth Floor, Washington, D.C. 20552, telephone (202) 414–3785 (a toll free number). The telephone number for the Telecommunications Device for the Deaf is: (800) 877–8339.

Background

In 1992 the Congress created the Office of Federal Housing Enterprise Oversight (OFHEO) as an independent office within the Department of Housing and Urban Development (HUD) to ensure that the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) are adequately capitalized and operating safely. OFHEO's mission is to promote housing and a strong economy by ensuring the safety and soundness of the Enterprises and fostering the strength and vitality of the nation's housing finance system. In fulfilling that mission, OFHEO imposes capital requirements on Fannie Mae and Freddie Mac, conducts annual examinations of each Enterprise, and engages in a broad research program. OFHEO's research focuses on the markets in which Fannie Mae and Freddie Mac operate, the risks the Enterprises face, the economic effects of their activities, and any risks they may pose to other participants in mortgage and financial markets.

Financial firms that have large amounts of liabilities or other financial obligations pose risks to other financial market participants. Default by a large financial firm affects their counterparties directly (by imposing losses on them) and may affect other financial firms indirectly (by leading markets to increase their financing costs, reduce their access to credit, or lower the market values of their assets). With respect to direct costs, firms with sufficiently large credit exposures to a large firm that fails may be rendered insolvent by that failure if their losses are sufficiently high. With respect to indirect costs, the default of a large financial firm may lead to temporary distortions in financial markets that may cause other firms to experience liquidity and even solvency problems. Such problems may also be caused by a loss of investor confidence, should investors believe that such firms have risk exposures similar to those that caused the large firm to default. Solvency and liquidity problems induced by the default of a large financial firm may also adversely affect the functioning of national or international systems for clearing and settling financial transactions, further distorting financial markets.

Fannie Mae and Freddie Mac have financed over forty percent of conventional single-family mortgages outstanding in the U.S. and are among the largest financial firms in the nation. To date, OFHEO has consistently classified the Enterprises as adequately capitalized pursuant to applicable minimum capital requirements, and OFHEO's examinations have found the Enterprises to be financially sound and well managed. However, despite the current financial health of Fannie Mae and Freddie Mac, unexpected economic shocks, failures of Enterprise management or operations, or other factors could at some point cause either Enterprise to fail to meet OFHEO's safety and soundness standards. The pace at which the Enterprises are growing and their increasingly central role in mortgage and financial markets raise the issue of whether, if either Enterprise experienced severe financial distress or failed, the functioning of the financial system in general, or of U.S. housing finance markets in particular, could be disrupted to such an extent that the U.S. or international economies would be adversely affected. Financial difficulties at Fannie Mae or Freddie Mac could be caused by disruptions at other financial firms.

To fulfill its supervisory responsibilities, OFHEO has initiated a comprehensive study of the risks Fannie Mae and Freddie Mac may pose to the financial system in general and to U.S. housing finance markets in particular. The study will examine the nature and magnitude of any risks posed by the Enterprises, whether and to what extent Fannie Mae and Freddie Mac contribute to or mitigate systemic risk, and actions that OFHEO and others could take to limit any systemic risk the Enterprises may pose. The study will help OFHEO enhance its oversight of Fannie Mae and Freddie Mac and improve OFHEO's ability to contribute to Federal regulation of financial institutions and markets more generally.

By systemic risk, OFHEO means the possibility that the direct or indirect effects of the failure of a large financial firm would cause distortions or disruptions in the financial system significant enough to have a substantial effect on real output and employment. An event that caused changes in asset values—even substantial losses in values—would not rise to a systemic threat if it was not expected to induce a loss in employment or economic output.

Questions on Which OFHEO Seeks Public Comment

OFHEO has identified a number of specific research questions that its study may address. The purpose of this notice is to solicit public comment on those questions, as well as any other topics that respondents believe OFHEO should examine in analyzing the risks posed by

Fannie Mae and Freddie Mac and actions that could reduce those risks. The questions fall into three broad areas: Whether and to what extent Fannie Mae and Freddie Mac pose risks to the financial system and U.S. housing finance markets, including systemic risk; how Federal sponsorship and regulation of the Enterprises affects any risks they pose; and the costs and benefits of possible actions to reduce those risks and, especially, any systemic risk Fannie Mae and Freddie Mac may pose. OFHEO encourages potential respondents to this notice to present their views, provide analysis, or suggest research methodology for some or all of the questions.

Whether and to What Extent Fannie Mae and Freddie Mac Pose Risks to the Financial System and U.S. Housing Finance Markets

1. Do Fannie Mae and Freddie Mac pose systemic risk, as defined above, to the U.S. and international financial systems? If so, how? How does any systemic risk posed by the Enterprises compare, in magnitude and character, to that posed by other large financial firms such as large, complex banking organizations (LCBOs)?

2. Do the activities of Fannie Mae and Freddie Mac reduce the systemic risk of the U.S. and international financial systems? If so, how?

3. Can the risks the Enterprises pose to the financial system in general and U.S. housing finance markets in particular, and any systemic risk they may pose, be quantified meaningfully? If so, how?

4. If Fannie Mae or Freddie Mac defaulted, how severe would losses on that Enterprise's obligations have to be to render other financial firms undercapitalized or insolvent? How many firms could experience such solvency problems? How does the risk of solvency problems vary for different types of firms, *e.g.*, federally insured depository institutions, securities firms, major derivatives dealers, other Government-sponsored enterprises (GSEs), and pension and retirement funds? How does that risk vary for firms of different size? How severe might such solvency problems be? How might such problems affect the functioning of the financial system?

5. If Fannie Mae or Freddie Mac experienced severe financial distress or failed, how many other financial firms could experience liquidity problems? How would such liquidity problems differ for different types of firms, *e.g.*, federally insured depository institutions, securities firms, major derivatives dealers, other GSEs, and pension and retirement funds? How does that risk vary for firms of different size? How severe might such liquidity problems be? How might such problems affect the functioning of the financial system?

6. If Fannie Mae or Freddie Mac failed or significantly curtailed its activities, how would liquidity in U.S. mortgage markets be affected? Would the other Enterprise or the rest of the industry be able to effectively fill the void? What would be the likely effects on the supply and price of mortgage credit? What would be the likely effects on economic activity in the housing sector? How might prospective homebuyers be affected?

7. What is the risk that solvency or liquidity problems at financial firms caused by severe financial distress at or default by either Enterprise could be serious enough to reduce employment or economic output or hamper the achievement of the goals of federal housing policy?

8. Fannie Mae and Freddie Mac are major participants in national and international systems for clearing and settling financial transactions. What risks do the Enterprises pose to such systems?

9. The outstanding debt of Fannie Mae and Freddie Mac has grown at an annual average rate of nearly 24 percent since year-end 1992. If debt issued by the Enterprises continued to grow substantially faster than most other types of credit market instruments, how would any risks Fannie Mae and Freddie Mac pose to the financial system as a whole, and U.S. housing finance markets in particular, be affected? How would those risks be affected if debt issued by the Enterprises and other GSEs replaced Treasury securities as a benchmark in financial markets?

10. How independent are the risks posed by Fannie Mae and Freddie Mac?

The Effect of Federal Sponsorship and Regulation on the Risks Posed by the Enterprises

11. What are the implications for the risks Fannie Mae and Freddie Mac pose to the financial system in general and U.S. housing finance markets in particular of the fact that investors in the Enterprises' obligations believe the federal government would act to protect them in the event either Enterprise failed?

12. Is there uncertainty about the actions the federal government would take in the event either Enterprise experienced severe financial distress? Does any such uncertainty affect the risks posed by Fannie Mae or Freddie Mac?

13. How does current federal regulation of Fannie Mae and Freddie Mac affect any systemic risk posed by the Enterprises?

Actions to Reduce Risks Posed by Fannie Mae and Freddie Mac

14. What steps could be taken to reduce the risk that a default by Fannie Mae or Freddie Mac would cause other financial firms to experience solvency or liquidity problems? What are the potential costs and benefits of those options?

15. What steps could be taken to reduce the risk of the Enterprises developing liquidity problems if either of them experienced severe financial distress? What are the potential costs and benefits of those options?

16. In addition to OFHEO's capital regulation and examinations of Fannie Mae and Freddie Mac, what steps can OFHEO or other appropriate entities take to reduce any risks the Enterprises may pose to clearing and settlement systems? What are the potential costs and benefits of those options?

17. In what areas could increased transparency and public disclosure by Fannie Mae and Freddie Mac reduce the risks they pose to the financial system in general and U.S. housing finance markets in particular? What specific information would be most valuable to market participants?

18. Could increased market discipline of Fannie Mae and Freddie Mac reduce the risks they pose to the financial system in general and U.S. housing finance markets in particular? If so, how? What specific actions could be taken to increase market discipline of the Enterprises? Could increased market discipline increase the risks Fannie Mae and Freddie Mac pose?

19. Should OFHEO's approach to regulating the Enterprises be adapted to reflect the risks Fannie Mae and Freddie Mac pose to the financial system in general and U.S. housing finance markets in particular? If so, how?

20. Should OFHEO's statutory authority be adapted to reflect the risk Fannie Mae and Freddie Mac pose to the financial system in general and U.S. housing finance markets in particular? If so, how?

OFHEO invites respondents to provide their analyses and views of any other issues related to the risks posed by Fannie Mae and Freddie Mac that they believe OFHEO should consider.

Dated: October 25, 2000.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 00–27812 Filed 10–27–00; 8:45 am]

BILLING CODE 4220–01–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management; Alaska

[AK–962–1410–HY–P, F–14909–A, F–14909–A2, F–19148–38]

Alaska Native Claims Selection; Notice for Publication

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1613(a), will be issued to Kuukpik, Corporation for approximately 15,987 acres. The corresponding subsurface estate will be conveyed to Arctic Slope Regional Corporation pursuant to Sec. 1431(o) of the Alaska National Interest Lands Conservation Act of December 2, 1980, Pub. L. 96–487, 94 Stat. 2533. The lands involved are in the vicinity of Nuiqsut, Alaska, within the following townships:

Umiat Meridian, Alaska

T. 11 N., R. 3 E.
T. 10 N., R. 4 E.
T. 11 N., R. 4 E.

A notice of this decision will be published once a week, for four (4) consecutive weeks, in the *Arctic Sounder.* Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government, or regional corporation, shall have until November 29, 2000 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, Subpart E, shall be deemed to have waived their rights.

Nancy Larsen,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 00–27730 Filed 10–27–00; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–01–600–1310–241A]

Northwest Colorado Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: The next meeting of the Northwest Colorado Resource Advisory Council will be held on Thursday, November 16, 2000, at the Holiday Inn, Moffat Room in Craig, Colorado.

DATES: Thursday, November 16, 2000.

ADDRESSES: For further information, contact Lynn Barclay, Bureau of Land Management (BLM), 455 Emerson Street, Craig, Colorado 81625; Telephone (970) 826–5096.

SUPPLEMENTARY INFORMATION: The Northwest Resource Advisory Council (RAC) will meet on Thursday, November 16, 2000, at the Holiday Inn in the Moffat Room, Highway 13, Craig, Colorado. The meeting will start at 9 a.m. and includes discussion of reports from the Weed, Wildlife, Fire, and United States Forest Service Advisory committees. Information will be presented concerning joint training for the Colorado RAC's and the Communication Policy committee will present their proposal.

The meeting is open to the public. Interested persons may make oral statements at the meetings or submit written statements at the meeting. Per-person time limits for oral statements may be set to allow all interested persons an opportunity to speak.

Summary minutes of council meetings are maintained at the Bureau of Land Management Offices in Craig and Grand Junction, Colorado. They are available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: October 24, 2000.

Richard Arcand,

Acting Center Manager, Northwest Center.

[FR Doc. 00–27754 Filed 10–27–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–070–01–1430–EU; NMNM102991, NMNM102992]

A Plan Amendment/Environmental Assessment To Resolve Two Occupancy Trespasses in San Juan County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare a Proposed Resource Plan Amendment.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM), Farmington Field Office (FFO) is proposing an amendment to the Farmington Resource Management Plan (RMP) (July 1988). The amendment would amend the plan to allow disposal of public land in FFO's retention zone. This would then make public land available to resolve two occupancy trespasses by direct sale of the tracts of public land to the unauthorized users pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713), as amended. The trespasses are located on the following public lands:

New Mexico Principal Meridian

T. 29 N., R. 11 W.
Sec. 3, lot 6 (portion of N½NW¼NW¼SW¼NE¼)
Containing 0.59 acres, more or less.

T. 31 N., R. 11 W.
Sec. 34, SE¼ SE¼ SE¼ SW¼ NW¼
Containing 0.625 acres, more or less.

DATES: Written scoping comments must be submitted on or before November 30, 2000.

ADDRESSES: Comments should be addressed to the Field Manager, Bureau of Land Management, Farmington Field Office, 1235 La Plata Highway, Suite A, Farmington, NM 87401.

FOR FURTHER INFORMATION CONTACT: Jerrold E. Crockford at the address above or at (505) 599–6333.

SUPPLEMENTARY INFORMATION: Description of Proposed Planning Action: The RMP provides for three land ownership adjustment zones—acquisition, rentention, and exchange. Of these three zones, sale of public land is not authorized within the acquisition zone. Sales are limited to specifically identified parcels (July 1988) within the retention zone, and authorized in the exchange zone. The proposed amendment would make two public lands listed above available to sell by direct sale to resolve two cases of occupancy trespass in BLM FFO's retention zone.

The Type of Issue Anticipated: Resolution of the occupancy trespass is the only issue to be addressed.

Criteria to Guide Development of the Planning Action: The planning criteria were identified to help guide the resolution of the issue. Public land will be considered for disposal in the following priority:

1. Public land which will resolve unintentional unauthorized occupancy.

2. Public land where size, location, or other physical characteristics make them difficult or uneconomical for BLM to manage.

As new information becomes available during the planning process or through public participation, additional criteria may be developed for future guidance of this planning effort.

The Disciplines to be Represented on the Interdisciplinary Team: The planning amendment/environmental assessment will be prepared by an interdisciplinary team consisting of a realty specialist, environmental coordinator, wildlife biologist, geologist, archaeologist, and a rangeland management specialist.

The Kind and Extent of Public Participation Activities to be Provided: A legal notice about the proposed planning action will be placed in the local newspaper. This notice will be sent to the Governor of New Mexico, San Juan County Commissioners, Resource Advisory Council, adjacent landowners, potentially affected members of the public. Depending on the nature and degree of interest expressed during the 30 days following publication of this notice, meetings may be scheduled or additional comments may be solicited.

The Location and Availability of Documents Relevant to the Planning Process: Pertinent information is available at the BLM, Farmington Field Office, 1235 La Plata, Suite A, Farmington, NM 87401.

Dated: October 24, 2000.

M.J. Chavez,

State Director.

[FR Doc. 00–27729 Filed 10–27–00; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

National Park Service

Subsistence Resource Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Wrangell-St. Elias National Park and Preserve and the Chairperson of the Subsistence Resource Commission for Wrangell-St. Elias National Park announce a forthcoming meeting of the Wrangell-St. Elias National Park Subsistence Resource Commission. The following agenda items will be discussed:

(1) Call to Order (Chairman).

(2) Roll Call: Confirmation of Quorum.

(3) Introduction of Commission members, staff, and guests.

(4) Review Agenda.

(5) Review and approval of minutes from February 22–23, 2000 meeting.

(6) Superintendent's welcome and review of the Commission purpose.

(7) Commission membership status.

(8) Public and other agency comments.

(9) Report on October 2000 SRC Chairs Workshop.

(10) Superintendent's report.

(11) Wrangell-St. Elias National Park and Preserve staff reports.

a. Wildlife Report

b. Fisheries Report

c. Park planning

d. Subsistence staffing

12. Old Business.

a. Possible restrictions of the harvest of ewe sheep.

b. Subsistence Hunting Program Recommendation 97–01: establish minimum residency requirement for resident zone communities.

c. SRC Chairs Customary Trade concerns.

d. Status report on Hunting Plan Recommendation 96–1 and 96–2: migratory bird—fall, spring, and summer harvest.

(13) New Business.

a. Update on Federal Fish Management and Resource monitoring.

b. Review 2000–2001 Federal Subsistence Board Fish Proposals for WRST.

Proposal FP01–14—Restrict subsistence harvest of fish to Copper River estuary.

Proposal FP01–15—Establish C&T in the Chitina Subdistrict for the villages of Chitina, Cantwell, Chistochina, Copper Center, Gakona, Gulkana, Mentasta.

Proposal FP01–16—Remove all seasonal restrictions to Federally qualified rural residents in the Glennallen Subdistrict.

Proposal FP01–17—Revise Federal regulations to implement the court directives allowing for a fishery on Tanada Creek. Requests five changes to the current Federal subsistence fishery regulations for the Batzulnetas subsistence fishery.

Proposal FP01–19 and 20—Revise C&T for the Upper Copper River.

c. Review 2001–2002 Federal Subsistence Board Wildlife proposals

d. Review FSB response to George Midvag letter—re: Slana C&T.

e. Governor's appointment

(14) Public and other agency comments.

(15) Subsistence Resource Commission work session to develop proposals/finalize recommendations.

(16) Set time and place of next Subsistence Resource Commission meeting.

(17) Adjourn meeting.

DATES: The meeting will begin at 9 a.m. on Friday, November 3, 2000, and conclude at approximately 5 p.m. The meeting will reconvene at 9 a.m. on Saturday, November 4, 2000, and adjourn at approximately 5 p.m. The meeting will adjourn earlier if the agenda items are completed.

ADDRESSES: The meeting location is: Yakutat Ranger Station, Yakutat, Alaska.

FOR FURTHER INFORMATION CONTACT: Devi Sharp, Resource Management Specialist, Wrangell-St. Elias National Park and Preserve, P.O. Box 439, Copper Center, Alaska 99573. Phone (907) 822–5234.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commission is authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operates in accordance with the provisions of the Federal Advisory Committees Act.

Robert L. Arnberger,

Regional Director.

[FR Doc. 00–27785 Filed 10–27–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 21, 2000. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written

comments should be submitted by November 14, 2000.

Carol D. Shull,

Keeper of the National Register.

ARIZONA

Pima County

El Montevideo Neighborhood Residential Historic District (Boundary Increase), 3700, 3800 Blocks of Camino Del Norte, Tucson, 00001362

Sam Hughes Neighborhood Historic District (Boundary Increase), Roughly bounded by E. Speedway Blvd., N. Country Club Rd., E. Broadway Blvd., and N. Campbell Ave., Tucson, 00001363

ARKANSAS

Fulton County

Saddle Store, AR 289, Saddle, 00001366

Pulaski County

Taylor, Samuel P., Service Station, (Arkansas Highway History and Architecture MPS) 1123 W. 3rd St., Little Rock, 00001364

Searcy County

Meek Building, Jct. of Main and Oak Sts., Leslie, 00001367

Willmering Tourist Cabins Historic District, (Arkansas Highway History and Architecture MPS) AR 65, Silver Hill, 00001361

Washington County

Bethlehem Cemetery, Approx. 4 mi. SW of Cane Hill on AR 45, near jct. with Cty. Rd 442, Canehill, 00001365

COLORADO

Alamosa County

Denver and Rio Crande Locomotive No. 169, Along Chamber Dr. within Cole Park, Alamosa, 00001369

El Paso County

Pauline Chapel, 2 Park Ave., Colorado Springs, 00001370

HAWAII

Honolulu County

Charlot, Jean, House, Address Restricted, Honolulu, 00001371

MINNESOTA

Goodhue County

Nansen Agricultural Historic District, Vic. of MN 56 and Cty Hwys 14 and 49, Holden, 00001372

MISSOURI

Cole County

Zion Lutheran Church, 2346 Zion Rd., Jefferson, 00001374

Greene County

Holland Building, (Springfield MPS) 205 Park Central East, Springfield, 00001373

Jackson County

St. Teresa's Academy Music and Arts Building, 5600 Main St., Kansas City, 00001375

NEBRASKA

Butler County

David City Park and Municipal Auditorium, S side of down, bordering NE 15, David City, 00001378

Douglas County

Field Club Historic District, Roughly bounded by Pacific, 32nd Ave., Center St., and 36th St., Omaha, 00001380

Otoe County

McCartney School District 17, (School Buildings in Nebraska MPS) Jct. of Steamwagon Rd. and CTH 59, Nebraska City, 00001379

Sarpy County

Zweibel Farmstead, 16302 S 63rd St., Papillion, 00001377

Saunders County

Ashland Archeological District, Address Restricted, Ashland, 00001376

NEW YORK

Otsego County

Wilber, George I., House, 11 Ford Ave., Oneonta, 00001381

PENNSYLVANIA

York County

Berkheimer, Henry and Elizabeth, Farm, 240 Bentz Mill Rd., Washington Township, 00001382

PUERTO RICO

Guanica Municipality

Yauco Battle Site, (Spanish-American War in Puerto Rico MPS) Address Restricted, Guanica, 00001383

TEXAS

Burnet County

Burnet County Courthouse, 220 S. Pierce St., Burnet, 00001384

TEXAS

Smith County

Marvin Methodist Episcopal Church, South, 300 W. Erwin St., Tyler, 00001385

[FR Doc. 00–27784 Filed 10–27–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of Information Collection Under Review; Nonimmigrant Checkout Letter.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until December 29, 2000.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: Extension of currently approved collection.*

(2) *Title of the Form/Collection:* Nonimmigrant Checkout Letter.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection;* Form G–146. Detention and Deportation Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and Households. This form is used in making inquiries of persons in the United States or abroad concerning the whereabouts of aliens, and to request departure information by the INS when initial investigation to locate the alien or verify his or her departure is unsuccessful.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20,000 responses at 10 minutes (.166) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,320 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or

additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, National Place Building, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20530.

Dated: October 24, 2000.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00–27712 Filed 10–27–00; 8:45 am]

BILLING CODE 4410–10–M

NATIONAL LABOR RELATIONS BOARD

Realignment of Regional Office Geographic Boundaries

October 25, 2000.

AGENCY: National Labor Relations Board.

ACTION: Notice of geographical realignment of Philadelphia (Region 4), Pittsburgh (Region 6) and Baltimore (Region 5) Regional Offices.

SUMMARY: The National Labor Relations Board gives notice of its intent to realign the geographic boundaries of its Philadelphia, Pittsburgh and Baltimore Regional Offices. This realignment is being effectuated in order to meet the objective of reducing the backlog of unfair labor practice and representation cases, reducing governmental costs and improving administrative efficiency within the Agency. This constitutes a permanent realignment of counties that have already been the subject of temporary geographic realignment for periods of time ranging from one year to several years.

EFFECTIVE DATE: December 1, 2000.

FOR FURTHER INFORMATION CONTACT: John T. Toner, Executive Secretary, 1099 14th Street, NW., Room 1600, Washington, DC 20570. Telephone: (202) 273–1944.

SUPPLEMENTARY INFORMATION: Beginning December 1, 2000, parties wishing to file unfair labor practice charges and representation petitions arising in 15 counties formerly within the geographic jurisdiction of the Philadelphia office will file in either the Pittsburgh or the Baltimore office according to the following design.

1. Cases originating in New Castle County, Delaware will be filed in the Baltimore office in Region 5 rather than in the Philadelphia office in Region 4. Cases originating in these counties have been handled by the Baltimore Regional Office on a temporary basis for a period of approximately one year.

2. Cases arising in the counties of Lycoming, Sullivan, Union, Montour, Snyder, Juniata, Dauphin, Northumberland, Lebanon, Schuylkill, Columbia and Perry will be filed in our Pittsburgh office in Region 6 rather than in our Philadelphia office in Region 4. Cases originating in these counties have been handled on a temporary basis for periods ranging from one to three years.

3. Cases originating in Bradford and Tioga Counties will be filed with our Pittsburgh office in Region 6 rather than with our Philadelphia office in Region 4. Cases originating in these counties have been handled on a temporary basis for a period of three years by our Albany, New York office in Region 3.

Dated: Washington, DC, October 25, 2000.

By Direction of the Board: National Labor Relations Board.

John T. Toner,

Executive Secretary.

[FR Doc. 00–27747 Filed 10–27–00; 8:45 am]

BILLING CODE 7545–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250 and 50–251]

In the Matter of Florida Power and Light Company (Turkey Point Plant, Units 3 and 4); Exemption

I

Florida Power and Light Company (FPL, the licensee) is the holder of Facility Operating License Nos. DPR–31 and DPR–41 that authorize operation of the Turkey Point Plant, Units 3 and 4, respectively. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission/NRC) now or hereafter in effect.

The facilities consist of pressurized water reactors located in Dade County, Florida.

II

Title 10 of the Code of Federal Regulations (10 CFR) Part 50, Appendix G requires that pressure-temperature (P/T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic pressure or leak testing conditions. Specifically, 10 CFR Part 50, Appendix G states that ''The appropriate requirements on both the pressure-temperature limits and the minimum permissible temperature must be met for all conditions.'' Appendix G of 10 CFR Part 50 specifies that the requirements for these limits are the American Society of Mechanical Engineers (ASME) Code, Section XI, Appendix G Limits.

To address the provisions of proposed license amendments to the technical specification (TS) P/T limits, low temperature overpressure protection (LTOP) system setpoints and LTOP system effective temperature (T_{enable}), the licensee requested in its submittal dated July 7, 2000, as supplemented October 4, 2000, that the staff exempt Turkey Point Units 3 and 4 from application of specific requirements of 10 CFR Part 50, Section 50.60(a) and Appendix G, and substitute use of ASME Code Cases N–588 and N–641. Code Case N–588 permits the use of circumferentially-oriented flaws in circumferential welds for development of P/T limits. Code Case N–641 permits the use of an alternate reference fracture toughness (K_{IC} fracture toughness curve instead of K_{Ia} fracture toughness curve) for reactor vessel materials in determining the P/T limits, LTOP setpoints and T_{enable}. Since the K_{IC} fracture toughness curve shown in ASME Section XI, Appendix A, Figure A–2200–1, provides greater allowable fracture toughness than the corresponding K_{Ia} fracture toughness curve of ASME Section XI, Appendix G, Figure G–2210–1 (the K_{Ia} fracture toughness curve), using Code Case N–641 for establishing the P/T limits, LTOP setpoints and T_{enable} would be less conservative than the methodology currently endorsed by 10 CFR Part 50, Appendix G and, therefore, an exemption to apply the Code Case would be required by 10 CFR 50.60. It should be noted that although the use of the K_{IC} fracture toughness curve in Code Case N–641 was recently incorporated into the Appendix G to Section XI of the ASME Code, an exemption is still needed because the proposed P/T limits, LTOP setpoints and T_{enable} (excluding Code Case N–641) are based on the 1996 edition (and 1997 addenda) of the ASME Code. The licensee uses the Westinghouse version of LTOP which is called Cold Overpressure Mitigation System.

The proposed license amendments will revise both the P/T limits of TS 3/

4.4.9.1 related to the heatup and cooldown of the reactor coolant system (RCS), and the LTOP setpoints and T_{enable} of TS 3/4.4.9.3, for operation to 32 effective full power years (EFPY).

Code Case N–588

The licensee has proposed an exemption to allow use of ASME Code Case N–588 in conjunction with ASME Section XI, 10 CFR 50.60(a) and 10 CFR Part 50, Appendix G, to determine P/T limits for Turkey Point Units 3 and 4.

The proposed license amendments to revise the P/T limits for Turkey Point Units 3 and 4 rely, in part, on the requested exemption. These revised P/T limits have been developed using postulated flaws in the circumferential orientation for the circumferential welds in the Turkey Point RPVs, in lieu of postulating axial flaws in the circumferential welds.

The use of circumferential flaws in circumferential welds is more appropriate than the use of axial flaws in circumferential welds. Since the flaws postulated in the development of P/T limits have a through-wall depth of one-quarter of the vessel wall thickness (1.94 inches for the Turkey Point RPVs), the length of the postulated flaw, six times the depth, is more than 11 inches. For the circumferential welds in the Turkey Point RPVs, an axial flaw of this length centered at the weld would place the tips of the postulated flaw within the adjacent base metal above and below the weld. Therefore, the only way to maintain a flaw within the circumferential weld metal is to postulate a circumferential flaw within the weld, as accomplished using Code Case N–588. Note that for the base metals adjacent to the circumferential welds, axial flaws are, and continue to be, postulated for the development of P/T limits.

Code Case N–641

The licensee has proposed an exemption to allow use of ASME Code Case N–641 in conjunction with ASME Section XI, 10 CFR 50.60(a) and 10 CFR Part 50, Appendix G, to determine LTOP system effective temperature, T_{enable}.

The proposed license amendments to revise T_{enable} for Turkey Point Units 3 and 4 rely, in part, on the requested exemption. The revised T_{enable} has been developed using the K_{Ic} fracture toughness curve, in lieu of the K_{Ia} fracture toughness curve, as the lower bound for fracture toughness of the reactor pressure vessel materials.

Use of the K_{Ic} curve in determining the lower bound fracture toughness of RPV steels is more technically correct than use of the K_{Ia} curve since the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The K_{Ic} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The staff has required use of the conservatism of the K_{Ia} curve since 1974, when the curve was adopted by the ASME Code. This conservatism was initially necessary due to the limited knowledge of the fracture toughness of RPV materials at that time. Since 1974, additional knowledge has been gained about RPV materials which demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve greatly exceeds the margin of safety required to protect the public health and safety from potential RPV failure. In addition, P/T curves, LTOP setpoints and T_{enable} based on the K_{Ic} curve will enhance overall plant safety by opening the P/T operating window, with the greatest safety benefit in the region of low-temperature operations.

Since an unnecessarily reduced P/T operating window can reduce operator flexibility without just basis, implementation of the proposed P/T curves, LTOP setpoints and T_{enable} as allowed by ASME Code Cases N–588 and N–641 may result in enhanced safety during critical plant operational periods, specifically heatup and cooldown conditions. Thus, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of 10 CFR 50.60 and Appendix G to 10 CFR Part 50 will continue to be served.

In summary, the ASME Section XI, Appendix G, procedure was conservatively developed based on the level of knowledge existing in 1974 concerning RPV materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded. The NRC staff has determined that this increased knowledge permits relaxation of the ASME Section XI, Appendix G requirements by application of ASME Code Cases N–588 and N–641, while maintaining, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the NRC regulations to ensure an acceptable margin of safety.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

The staff has determined that an exemption would be required to approve the use of Code Cases N–588 and N–641. The staff examined the licensee's rationale to support the exemption request and concurred that the use of the Code cases would meet the underlying purpose of these regulations. Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of 10 CFR Part 50, Appendix G, Appendix G of the Code, and Regulatory Guide 1.99, Revision 2, the staff concludes that application of the Code cases as described would provide an adequate margin of safety against brittle failure of the RPV. This conclusion is also consistent with the determinations that the staff has reached for other licensees under similar conditions based on the same considerations. Therefore, the staff concludes that requesting exemption under the special circumstances of 10 CFR 50.12(a)(2)(ii) is appropriate and that the methodologies of Code Cases N–588 and N–641 may be used to revise the P/T limits, LTOP setpoints and T_{enable} for Turkey Point Units 3 and 4.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants Florida Power and Light Company exemption from the requirements of 10 CFR Part 50, Section 50.60(a) and 10 CFR Part 50, Appendix G, for Turkey Point Units 3 and 4.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant effect on the quality of the human environment (65 FR 63265).

This exemption is effective upon issuance.

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

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–27807 Filed 10–27–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–391]

In the Matter of Tennessee Valley Authority (Watts Bar Nuclear Plant, Unit 2); Order

Tennessee Valley Authority (TVA, the permittee) is the current holder of Construction Permit No. CPPR–92, issued by the Atomic Energy Commission on January 23, 1973, for construction of the Watts Bar Nuclear Plant (WBN), Unit 2. (CPPR–91 for construction of WBN Unit 1 was also issued on January 23, 1973, and Facility Operating License NPF–90 was issued for operation of Unit 1 on February 7, 1996.) Unit 2 is currently partially completed and is being maintained in a construction layup status. These facilities are at the permittee's site on the west branch of the Tennessee River approximately 50 miles northeast of Chattanooga, Tennessee.

On October 13, 1999, the Tennessee Valley Authority filed a request pursuant to 10 CFR 50.55(b) for an extension of the completion date for Unit 2 to December 31, 2010. This request was supplemented by letter dated July 14, 2000. The permittee requested this extension for Unit 2 for the following reasons, as stated in its application:

> At this time, WBN Unit 2 is being maintained in a construction layup status. TVA plans to maintain the unit in this status pending the determination of new generation (supply-side) options to meet future electric power demands. TVA's integrated resource plan—Energy Vision 2020—identified the need for a flexible range of options and alternatives required to meet, among other things, the Tennessee Valley region's new base-load power supply needs through the year 2020. Recent record breaking energy demand in the Tennessee Valley reinforced TVA's obligation to provide ample safe, economic, reliable, and environmentally responsible sources of electric power. Fulfilling this responsibility in light of the many uncertainties associated with the future electric utility industry makes it imperative that TVA maintain a robust and flexible range of generating options. The extension of WBN Unit 2's construction permit will help TVA maintain a full scope of competitive energy production choices.

In support of this request, the permittee stated that

> [WBN Unit 2 meets] * * * NRC's definition for deferred nuclear plant units as described in Generic Letter (GL) 87–15, ''Policy Statement on Deferred Plants.'' Consideration of these units in a deferred status does not constitute a reduction in commitment in accordance with 10 CFR 50.55(f)(3)(i).

The current quality assurance requirements applicable to the subject units, particularly the maintenance, preservation, and documentation requirements, will continue in accordance with the Nuclear Quality Assurance Plan * * * (NQA Plan). Future changes to the NQA Plan may be submitted commensurate with the site activities and expected length of delay, in accordance with 10 CFR 50.55(f)(3).

TVA has established maintenance and lay-up programs that are described and controlled in accordance with approved plant procedures. No changes have been made to these programs as a result of considering these units in accordance with GL 87–15. These programs have been inspected periodically since their inception. NRC conducted the last inspection of * * * WBN Unit 2 in July 1999* * *, and no findings or violations were identified.

Consistent with GL 87–15 * * * and 10 CFR 2.109, ''Effect of Timely Renewal Application,'' TVA is maintaining * * * [the WBN Unit 2] construction permit * * * . At this time, no projected date for the resumption of construction activities for * * * [WBN Unit 2] is available.

The NRC's Policy Statement on Deferred Plants addresses extension of construction permits for plants in deferred status and states that the staff will consider such extensions in accordance with 10 CFR 50.55(b). Section 50.55(b) does not specify any limit on the duration of an extension that the staff may grant, but states that ''Upon good cause shown the Commission will extend the completion date for a reasonable period of time.'' The staff has concluded that the permitee's stated bases for the requested duration of the extension represent good cause and are reasonable, and that this action involves no significant hazards consideration.

Pursuant to 10 CFR 51.32, the Commission has determined that extending the construction completion date will have no significant impact on the environment.

The NRC staff has prepared an environmental assessment and finding of no significant impact which was published in the **Federal Register** on October 10, 2000.

For further details with respect to this action, see the application dated October 13, 1999, as supplemented by letter dated July 14, 2000, and the NRC staff's letter and Safety Evaluation of the request for extension of the construction permit, dated October 24, 2000. Documents 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 are accessible electronically through the ADAMS public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

It Is Hereby Ordered That the latest completion date for Construction Permit No. CPPR–92 is extended from December 31, 1999, to December 31, 2010.

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

For the Nuclear Regulatory Commission.

Brian W. Sheron,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 00–27808 Filed 10–27–00; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 12g3–2, OMB Control No. 3235–0119, SEC File No. 270–104;

Rule 7a–15 thru 7a–37, OMB Control No. 3235–0132, SEC File No. 270–115;

Rule 13e–1, OMB Control No. 3235–0305, SEC File No. 270–255.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rule 12g3–2 (OMB 3235–0119; SEC File No. 270–104) provides an exemption from Section 12(g) of the Securities Exchange Act of 1934 for foreign private issuers. Rule 12g3–2 is designed to provide investors in foreign securities with information about such securities and the foreign issuer. It affects approximately 1,800 foreign issuer respondents at an estimated one burden hour per response for a total annual burden of 1,800 hours. All information required by Rule 12g3–2 is available to the public. All information provided under Rule 12g3–2 is mandatory.

Rules 7a–15 through 7a–37 (OMB 3235–0132; SEC File No. 270–115) sets forth the general requirements relating to applications, statements and reports that must be filed under the Trust Indenture Act of 1939 by issuers and

trustees qualifying indentures for offerings of debt securities. Rules 7a–15 through 7a–37 are disclosure guidelines and do not directly result in any collection of information. The respondents are persons and entities subject to Trust Indenture Act requirements. No information collection burdens are imposed directly by these rules so they are assigned only one burden hour for administrative convenience.

Rule 13e–1 (OMB 3235–0305; SEC File No. 270–255) makes it unlawful for an issuer who has received notice that it is the subject of a tender offer made under 14(d)(1) of the Securities Exchange Act of 1934 and that has commenced under Rule 14d–2 to purchase any of its equity securities during the tender offer unless it first files a statement with the Commission containing information required by the rule. This rule is in keeping with the commission's statutory responsibility to prescribe rules and regulations that are necessary for the protection of investors. Public companies are the respondents. An estimated 20 respondents file Rule 13e–1 submissions annually at an estimated 13 hours per response for a total annual burden of 260 hours. All information provided is made available to the public.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: October 20, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–27717 Filed 10–27–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITES 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.

SEC Investor Complaint Forms, SEC File No. 270–485, OMB Control No. 3235-new.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''SEC'') has submitted to the Office of Management and Budget a request for approval of three proposed forms. The titles of the forms are SEC Investor Complaint Form (two versions) and SEC Investor Question Form.

The SEC receives annually over 150,000 letters, e-mails, faxes, and phone calls from investors who have complaints and questions on a wide range of investment-related issues. The SEC proposes to place on its website two online forms, and to make available a hard-copy complaint form, to be used by investors to submit complaints and questions to the SEC through the Internet, by mail, or by fax. The SEC will use the information supplied on the forms to respond to general investor queries, process investor complaints, or initiate enforcement investigations in appropriate matters. The information that is captured automatically in the online forms and through manual data entry of the hard-copy form will allow the SEC to employ automation to direct a complaint or question to the appropriate division or office at the SEC (primarily the Division of Enforcement or the Office of Investor Education and Assistance) for review and processing, to maintain a record of the complaint or question, and to track the volume of complaints and questions received. Investors are not required to use the online or hard-copy Investor Complaint Form or the Investor Question Form and may continue to submit written complaints and questions by letter (sent by mail or fax), e-mail messages, and telephone calls. However, investors who complete the forms enable the SEC to process their complaints and questions more quickly and efficiently.

The respondents to the Investor Complaint Forms and the Investor Question Form will be investors who want the SEC's assistance with their complaints against entities that the SEC regulates, who want to report companies or individuals who may be violating the federal securities laws, or who want to ask questions or request information about the statutes and rules the SEC administers or about specific companies the SEC regulates.

Investors will use the Investor Complaint Forms to send complaints to the SEC about entities that are regulated by the SEC, about issuers of securities, and about individuals and companies whose activities may violate the federal securities laws. Investors who submit the Investor Complaint Forms are asked to provide information on, among other things, their names, how they can be contacted, the names of the financial institutions, companies, or individuals they are complaining about, the nature of their complaints, what documents can be provided, and what legal actions they have taken. The online version asks for general information about the investor's complaint and then poses follow-up questions based on previous answers. Most questions on the Investor Complaint Forms are asked in a multiple-choice style that allows the investor to provide an answer simply by checking a box. Some questions require the investor to provide more detailed full-text responses about the facts of his complaint.

Investors will use the Investor Question Form to ask general questions about the SEC's programs, rules, and other matters that are not appropriate for the Investor Complaint Form.

Investors who submit the Investor Question Form are asked to provide their names, how they can be contacted, and their questions.

The total reporting burden of using the Investor Complaint Forms or Investor Question Form is estimated to 23,750 hours. This was calculated by multiplying the total number of investors whom the SEC expects to use the forms times how long it will take to complete each form (95,000 respondents $\times$ 15 minutes = 23,750 burden hours).

Use of the Investor Complaint and Question Forms is voluntary. The SEC will continue to accept questions and complaints submitted in letters (sent by mail or fax), e-mail messages, and telephone calls. However, if an investor chooses to submit an Investor Complaint Form or Investor Question Form through the Internet, the investor must respond to certain questions about the nature of the complaint or the form will not be accepted electronically.

Responses to the Investor Complaint or Investor Question Forms are subject to the Freedom of Information Act (FOIA), which generally allows the SEC to make information available to the public upon request. An investor who submits an Investor Complaint or Investor Question Form may request

that his information not be released to the public by writing a letter asking that it remain confidential under one of the exemptions described in FOIA (see 5 U.S.C. 552). The SEC determines whether the investor's claim of an exemption if valid when someone requests the investor's information under FOIA. The SEC often makes it files available to other governmental agencies, particularly United States Attorneys and state prosecutors. There is a likelihood that information supplied by investors will be made available to such agencies where appropriate. Whether or not the SEC makes its files available to other governmental agencies is, in general, all confidential matter between the SEC and such other governmental agencies. 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.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 20, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–27718 Filed 10–27–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24696; File No. 812–12060]

The Wachovia Variable Insurance Funds, et al.

October 25, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an Order under section 6(c) of the Investment Company Act of 1940 (''Act'') for exemption from the provisions of sections 9(a), 13(a), 15(a), and 15(b) of the Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

Applicants: The Wachovia Variable Insurance Funds (''Trust'') and Wachovia Bank, N.A., on behalf of Wachovia Asset Management (''Wachovia''), a business unit of Wachovia Bank, N.A.

Summary of Application: Applicants seek an order to permit shares of the Trust and shares of any other investment company or series thereof that is designed to fund insurance products and for which Wachovia, or any of its affiliates, may serve in the future as investment adviser, administrator, manager, principal underwriter or sponsor (''Future Trusts'', together with Trust, ''Trusts'') to be sold to and held by (a) variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies, (b) qualified pension and retirement plans outside of the separate account context, and (c) separate accounts that are not registered under the Act pursuant to exemptions from registration under Section 3(c) of the Act.

Filing Date: The application was filed on April 6, 2000, and amended and restated on September 14, 2000.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 14, 2000, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

FOR FURTHER INFORMATION CONTACT: Mark Cowan, Senior Counsel, or Keith Carpenter, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, R. Edward Bowling, Wachovia Bank, N.A., 100 North Main Street, Winston-Salem, NC 27101.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW., Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representations

1. The Trust is a Massachusetts business trust and is registered under the Act as an open-end management investment company. The Trust currently consists of three separately managed series (''Funds''). Additional series could be added to the Trust in the future. Each Fund has its own investment objective and policies.

2. Wachovia, a business unit of Wachovia Bank, N.A., is the investment adviser for the Trust. As a ''bank'' within the meaning of section 202(a)(2)(A) of the Investment Advisers Act of 1940 (''Advisers Act''), Wachovia Bank, N.A. is excluded from the definition of an investment adviser in section 202(a)(11) of the Advisers Act and, accordingly, is exempt from the registration requirements of section 203 of the Act.

3. Upon the granting of the exemptive relief requested by this application, the Trust intends to offer its shares representing interests in each Fund, and any other series established by the Trust (''Future Funds'') (Funds, together with Future Funds, ''Funds'' or each a ''Fund'') to separate accounts of both affiliated and unaffiliated insurance companies to serve as the investment vehicle for variable annuity contracts and variable life insurance contracts (''Variable Contracts''). In addition, Applicants propose that the Trust offer and sell shares representing interests in the Funds directly to qualified pension and retirement plans (''Qualified Plans'' or ''Plans'') outside of the separate account context. Separate accounts owning shares of the Funds and their insurance company depositors are referred to herein as ''Participating Separate Accounts'' and ''Participating Insurance Companies,'' respectively.

4. Participating Insurance Companies will establish their own Participating Separate Accounts and design their own Variable Contracts. Each Participating Insurance Company will enter into a participation agreement with the Trust on behalf of its Participating Separate Account, and will have the legal obligation of satisfying all applicable requirements under state and federal law. The role of the Trust, so far as the federal securities laws are applicable, will be limited to that of offering its shares to separate accounts of various insurance companies and fulfilling any conditions the Commission may impose upon granting the Order requested herein.

5. The Plans will be pension or retirement plans intended to qualify under sections 401(a) and 501(c) of the Internal Revenue Code of 1986, as

amended (''Code''). Many of the Plans will include a cash or deferred arrangement (permitting salary reduction contributions) intended to qualify under section 401(k) of the Code. The Plans will also be subject to, and will be designed to comply with, the provisions of the Employee Retirement Income Security Act of 1974 (''ERISA'') applicable to either defined benefit or to defined contribution profit-sharing plans, specifically ''Title I—Protection of Employee Benefit Rights.'' The Plans therefore will be subject to regulatory provisions under the Code and ERISA regarding, for example, reporting and disclosure, participation and vesting, funding, fiduciary, responsibility, and enforcement.

Applicants' Legal Analysis

1. Applicants request an order pursuant to section 6(c) of the Act exempting them from sections 9(a), 13(a), 15(a), and 15(b) of the Act, and Rules 6e–2(b)(15) and 6e–3T(b)(15) thereunder, to the extent necessary to permit shares of the Trusts to be offered and sold to, and held by: (a) Both variable annuity and variable life insurance separate accounts of the same life insurance company or of any affiliated life insurance company (''mixed funding''); (b) separate accounts of unaffiliated life insurance companies (including both variable annuity separate accounts and variable life insurance separate accounts) (''shared funding''); (c) trustees of Qualified Plans; and (d) separate accounts that are not registered under the Act pursuant to exemptions from registration under section 3(c) of the Act.

2. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the Act as a unit investment trust (''UIT''), Rule 6e–2(b)(15) provides partial exemptions from the following sections of the Act: (a) section 9(a), which makes it unlawful for any company to serve as an investment adviser or principal underwriter of any UIT, if an affiliated person of that company is subject to a disqualification enumerated in section 9(a)(1) or (2); and (b), sections 13(a), 15(a) and 15(b) of the Act to the extent that those sections have been deemed by the Commission to require ''pass-through'' voting with respect to an underlying investment company's shares. The exemptions granted to a separate account by Rule 6e–2(b)(15) are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares ''exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company.'' Therefore, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an investment company that also offers its shares to a variable annuity separate account or a flexible premium variable life insurance account of the same company or of any affiliated or unaffiliated insurance company. In addition, the relief granted by Rule 6e–2(b)(15) is not available if the scheduled premium variable life insurance separate account owns shares of an underlying investment company that also offers its shares to separate accounts funding variable contracts of one or more unaffiliated life insurance companies. Moreover, because the relief under Rule 6e–2(b)(15) is available only where shares are offered exclusively to separate accounts, additional exemptive relief is necessary if the shares of the Funds are also to be sold to Qualified Plans.

3. In connection with flexible premium variable life insurance contracts issued through a separate account registered under the Act as a UIT, Rule 6e–3(T)(b)(15) provides partial exemptions from sections 9(a) and from 13(a), 15(a) and 15(b) of the Act to the extent that those sections have been deemed by the Commission to require ''pass-through'' voting with respect to an underlying investment company's shares. The exemptions granted to a separate account by Rule 6e–3T(b)(15) are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares ''exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled contracts or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company.'' Therefore, Rule 6e–3(T) permits mixed funding for flexible premium variable life insurance separate accounts.

However, Rule 6e–3(T) does not permit shared funding, because the relief granted by Rule 6e–3(T)(b)(15) is not available with respect to a flexible premium variable life insurance separate account that owns shares of an investment company that also offers its shares to separate accounts (including flexible premium variable life insurance separate accounts) of unaffiliated life insurance companies. Moreover, because the relief under Rule 6e–3(T) is available only where shares are offered exclusively to separate accounts, additional exemptive relief is necessary if the shares of the Trust are also to be sold to Qualified Plans.

4. Due to changes in the federal tax law subsequent to the adoption of Rules 6e–2(b)(15) and 6e–3T(b)(15), the Trust is afforded an opportunity to increase its asset base by selling shares to Qualified Plans. Section 817(h) of the Code imposes certain diversification standards on the assets underlying Variable Contracts held in the Funds. The Code provides that Variable Contracts will not be treated as annuity contracts or life insurance contracts for any period (and any subsequent period) for which the investments are not, in accordance with regulations issued by the Treasury Department, adequately diversified. On March 2, 1989, the Treasury Department issued Regulations (Treas. Reg. § 1.817–5), which established diversification requirements for the investment portfolios underlying Variable Contracts. The Regulations generally provide that, in order to meet the diversification requirements, all of the beneficial interests in the underlying investment company must be held by the segregated asset accounts of one or more insurance companies. However, the Regulations also contain certain exceptions to this requirement, one of which allows trustees of a Qualified Plan to hold shares of an investment company without adversely affecting the status of the investment company as an adequately diversified underlying investment for Variable Contracts issued through separate accounts of insurance companies. (Treas. Reg. § 1.817–5(f)(3)(iii).) As a result of this exception to the general diversification requirements, Qualified Plans may select the Trust as an investment option without endangering the tax status of Variable Contracts issued through Participating Insurance Companies.

5. Qualified Plans may choose the Trust (or any series thereof) as their sole investment or as one of several investments. Plan participants may or may not be given an investment choice depending on the Plan itself. Shares of the Funds sold to such Qualified Plans would be held by the trustee(s) of the Plans as mandated by section 403(a) of ERISA. As described elsewhere herein, there will be no pass-through voting to the participants in such Qualified Plans, as it is not required to be provided to such participants pursuant to ERISA.

6. The promulgation of Rules 6e–2(b)(15) and 6e–3(T)(b)(15) preceded the issuance of the Treasury Regulations that made it possible for shares of an

investment company to be held by trustees of a Qualified Plan without adversely affecting the ability of separate accounts of insurance companies to hold shares of the same investment company in connection with their variable annuity and variable life contracts. Thus, the sale of shares of the same investment company to both separate accounts and Qualified Plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

7. Accordingly, an Order of the Commission is hereby requested exempting flexible premium variable life insurance separate accounts (and, to the extent necessary, any investment adviser or sub-adviser, principal underwriter and depositor of such an account) from sections 9(a), 13(a), 15(a), and 15(b) of the Act, and Rule 6e–3(T)(b)(15) (and any comparable permanent rule) thereunder, to the extent necessary to permit shares of the Funds to be offered and sold to variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies, to Qualified Plans, and to separate accounts that are not registered under the Act pursuant to exemptions from registration under section 3(c) of the Act.

8. Consistent with the Commission's authority under section 6(c) of the Act to grant exemptive orders to a class or classes of persons and transactions, this application requests relief for the class consisting of insurers and separate accounts investing in the Funds (and, to the extent necessary, investment advisers, sub-advisers, principal underwriters and depositors of such accounts). The Commission staff will have an opportunity to review compliance by the Participating Insurance Companies with the conditions of the requested Order at the time each Participating Separate Account files its registration statement.

9. Section 6(c) authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provisions of the Act and the rules or regulations thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants are not aware of any stated rationale for the exclusion of separate accounts and investment companies, or series thereof, engaged in shared funding from the exemptive relief provided under Rules 6e–2(b)(15) and 6e–3(T)(b)(15) or for the exclusion of separate accounts and investment companies, or series thereof, engaged in mixed funding from the exemptive relief provided under Rule 6e–2(b)(15). Indeed, the Commission's proposed amendments to Rule 6e–2 would eliminate the exclusion of mixed funding from the relief provided under Rule 6e–2(b)(15) and, as noted above, numerous exemptions permitting both mixed and shared funding have been granted since the adoption of Rules 6e–2 and 6e–3.

10. Similarly, Applicants are not aware of any stated rationale for excluding Participating Insurance Companies from the exemptive relief requested because the Funds may also sell their shares to Qualified Plans. In fact, Applicants assert that the proposed sale of shares of the Funds may allow for the development of larger pools of assets resulting in the potential for greater investment and diversification opportunities, and for decreased expenses at higher asset levels resulting in cost efficiencies. If the Funds were to sell shares only to Qualified Plans, no exemptive relief would be necessary. The relief provided under Rules 6e–2(b)(15) and 6e–3(T)(b)(15) does not relate to Qualified Plans or to a registered investment company's ability to sell its shares to such Plans. Exemptive relief is requested in the application only because the separate accounts investing in the Funds are themselves investment companies seeking relief under Rules 6e–2 and 6e–3(T) and do not wish to be denied such relief if the Funds sell shares to Qualified Plans. As noted above, the Commission has granted numerous exemptions permitting extended mixed and shared funding. Moreover, for the reasons stated below, applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

11. Section 9(a) of the Act provides that it is unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in section 9(a)(1) or (2). However, Rules 6e–2(b)(15)(i) and (ii) and 6e–3(T)(b)(15)(i) and (ii) provide partial exemptions from Section 9(a) under certain circumstances, subject to the limitations discussed above on mixed and shared funding. These exemptions limit the disqualification to affiliated individuals or companies that directly participate in the management or administration of the underlying investment company or series thereof.

12. Rules 6e–2(b)(15)(i) and 6e–3(T)(b)(15)(i) allow an individual disqualified under section 9(a)(1) or (2) to be an officer, director, or employee of an insurance company, or any of its affiliates that serves in any capacity with respect to an underlying investment company, so long as the disqualified individual does not participate directly in the management or administration of the underlying investment company. Similarly, Rules 6e–2(b)(15)(ii) and 6e–3(T)(b)(15)(ii) permit an insurance company disqualified under section 9(a) of the Act to serve in any capacity with respect to an underlying investment company, provided that the affiliated person, ineligible under section 9(a)(1) or (2) of the Act, does not participate directly in the management or administration of the investment company.

13. The partial relief granted in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) from requirements of section 9 of the Act, in effect, limits the amount of monitoring of an insurer's personnel that would otherwise be necessary to ensure compliance with section 9 to that which is appropriate in light of the policy and purposes of section 9. The exemptions contained in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the Act to apply section 9(a) to the many individuals who may be involved in a large insurance company but would have no connection with the investment company, or any series thereof, funding the separate accounts. Applicants believe that it is unnecessary to limit the applicability of the rules merely because shares of the Trust may be sold in connection with mixed and shared funding. The Participating Insurance Companies will not be involved in the management or administration of the Trust or the Funds. Therefore, applying the restrictions of section 9(a) serves no regulatory purpose. Indeed, applying such restrictions would increase the monitoring costs incurred by the Participating Insurance Companies and, therefore, would reduce the net rates of return realized by Variable Contract owners.

14. Moreover, the appropriateness of the relief requested herein will not be affected by the proposed sale of shares of the Trust to Qualified Plans. The insulation of the Trust from those individuals who are disqualified under the Act remains in place. Applying the requirements of section 9(a) because of investment by Qualified Plans would be

unjustified and would not serve any regulatory purpose. Since the Qualified Plans are not investment companies and will not be deemed to be affiliated solely by virtue of their shareholdings, no additional relief is necessary.

15. Rules 6e–2(b)(15) and 6e–3(T)(b)(15) under the Act give the Participating Insurance Companies the right to disregard voting instructions of contract owners. Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) each provide that the insurance company may disregard the voting instructions of its contract owners with respect to the investments of an underlying fund, or any contract between a fund and its investment adviser, when required to do so by an insurance regulatory authority (subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of Rules 6e–2 and 6e–3(T) under the Act). Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(A)(*2*) each provide that the insurance company may disregard voting instructions of contract owners if the contract owners initiate any change in the underlying investment company's investment policies, principal underwriter, or any investment adviser (subject to the provisions of paragraphs (b)(5)(ii), (b)(7)(ii)(B), and (b)(7)(ii)(C) of Rules 6e–2 and 6e–3(T) under the Act). These rights do not raise any issues different from those raised by the authority of state insurance administrators over separate accounts. Under Rules 6e–2(b)(15) and 6e–3(T)(b)(15), an insurer can disregard voting instructions of contract owners only with respect to certain specified items.

16. The potential for disagreement among Participating Separate Accounts is limited by the requirements in Rules 6e–2 and 6e–3 that a Participating Insurance Company's disregard of voting instructions be reasonable and based on specific good faith determinations. Voting instructions with respect to a change in investment policies may be disregarded only if such disapproval is reasonable and the insurance company makes a good faith determination that such change would: (a) Violate state law; (b) result in investments that were not consistent with the investment objectives of the separate account; or (c) result in investments that would vary from the general quality and nature of investments and investment techniques used by other separate accounts of the company or of an affiliated life insurance company with similar investment objectives. Voting instructions with respect to a change in the principal underwriter may be disapproved if such disapproval is reasonable. Voting instructions with respect to a change in an investment adviser may be disregarded only if such disapproval is reasonable and the insurance company makes a good faith determination that: (a) The adviser's fee would exceed the maximum rate that may be charged against the separate account's assets; (b) the proposed adviser may be expected to employ investment techniques that vary from the general techniques used by the current adviser; or (c) the proposed adviser may be expected to manage the investment company's investments in a manner that would be inconsistent with its investment objectives or in a manner that would result in investments that vary from certain standards.

17. In addition, the sale of shares of the Funds to Qualified Plans will not have any impact on the relief requested in this regard. Shares of the Funds sold to Qualified Plans will be held by the trustees of the Plans as mandated by section 403(a) of ERISA. Section 403(a) provides that the trustee(s) must have exclusive authority and discretion to manage and control a Plan with two exceptions: (a) when the Plan expressly provides that the trustee(s) is (are) subject to the direction of a named fiduciary who is not a trustee, in which case the trustee(s) is (are) subject to proper directions made in accordance with the terms of the Plan and not contrary to ERISA, and (b) when the authority to manage, acquire or dispose of assets of the Plan is delegated to one or more investment managers pursuant to section 402(c)(3) of ERISA. Unless one of the two exceptions stated in section 403(a) applies, Plan trustees have the exclusive authority and responsibility for voting proxies. Where a name fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. Accordingly, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with respect to Qualified Plans since such Plans are not entitled to pass-through voting privileges.

18. Even if a Qualified Plan were to hold a controlling interest in the Trust, Applicants do not believe that such control would disadvantage other investors in the Trust to any greater extent than is the case when any institutional shareholder holds a majority of the voting securities of any open-end management investment company. In this regard, Applicants submit that investment in the Funds by a Qualified Plan will not create any of the voting complications occasioned by mixed and shared funding. Unlike mixed or shared funding, Plan investor voting rights cannot be frustrated by veto rights of insurers or state regulators.

19. Applicants generally expect many Qualified Plans to have their trustee(s) or other fiduciaries exercise voting rights attributable to investment securities held by the Qualified Plan in their discretion. Some of the Qualified Plans, however, may provide for the trustee(s), an investment adviser(s) or another named fiduciary to exercise voting rights in accordance with instructions from participants.[1]

20. Where a Qualified Plan does not provide participants with the right to give voting instructions, Applicants submit that there is no potential for material irreconcilable conflicts of interest between or among contract owners and Plan investors with respect to voting of the Funds' shares.

21. Where a Plan provides participants with the right to give voting instructions, Applicants see no reason to believe that participants in Qualified Plans generally or those in a particular Plan, either as a single group or in combination with participants in other Qualified Plans, would vote in a manner that would disadvantage contract owners. The purchase of shares of the Funds by Qualified Plans that provide voting rights does not present any complications not otherwise occasioned by mixed and shared funding.

22. As demonstrated below, no increased conflicts of interest would be present if the Commission grants the exemptive relief sought hereby.

23. Shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several states. For example, when different Participating Insurance Companies are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one Participating Insurance Company is domiciled could require action that is inconsistent with the requirements of insurance regulators in one or more other states in which other Participating Insurance Companies are domiciled.

[1] Although section 403(a) of ERISA provides plan trustees with complete discretion to manage and control their plan, including exercising any voting rights attributable to investment securities held by the plan, nothing therein prohibits the trustees from obligating themselves to solicit and follow voting instructions from plan participants. However, it is not generally a common practice for plan trustees to undertake such obligations, even for 401(k) plans.

That possibility, however, is no different and no greater than that which exists when a single insurer and its affiliates offer their insurance products in several states, as currently is permitted.

24. Affiliations among insurers do not reduce the potential, if any exists, for differences in state regulatory requirements. In any event, the conditions discussed below (which are adapted from the conditions included in Rule 6e–3(T)(b)(15)) are designed to safeguard against any adverse effects that differences among state regulatory requirements may produce. For example, if a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer may be required to withdraw its Participating Separate Account's investment in the Trust.

25. Similarly, affiliation does not eliminate the potential, if any exists, for divergent judgments as to when a Participating Insurance Company could disregard contract owner voting instructions. The potential for disagreement is limited by the requirement that disregarding voting instructions be reasonable and based on specified good faith determinations. However, if a Participating Insurance Company's decision to disregard Contract owner voting instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the Trust, to withdraw its separate account's investment in the Trust and no charge or penalty will be imposed as a result of such withdrawal.

26. There is no reason why the investment policies of the Trust, were it to engage in mixed funding, would or should materially differ from what those policies would or should be if the Trust supported only variable annuity or only variable life insurance contracts. Hence, there is no reason to believe that conflicts of interest would result from mixed funding. Moreover, the Trust will not be managed to favor or disfavor any particular insurer or any type of contract.

27. No one investment strategy can be identified as appropriate to a particular insurance product or to a Plan. Each pool of variable annuity and variable life insurance contract owners is composed of individuals of diverse financial status, age, insurance and investment goals. Those diversities are of greater significance than any differences in insurance products. An investment company supporting even one type of insurance product must accommodate those diverse factors.

28. The sale of shares of the Funds to Qualified Plans should not increase the potential for material irreconcilable conflicts of interest between or among different types of investors. There should be very little potential for such conflicts beyond that which would otherwise exist between variable annuity and variable life insurance contract owners.

29. Section 817(h) of the Code imposes certain diversification standards on the assets underlying Variable Contracts held in the portfolios of management investment companies. Treasury Regulation 1.817–5(f)(3)(iii), which establishes diversification requirements for such portfolios, specifically permits, among other things, ''qualified pension or retirement plans'' and separate accounts to share the same underlying management investment company. Therefore, neither the Code, the Treasury regulations nor the revenue rulings thereunder recognize or proscribe any inherent conflicts of interest if Qualified Plans, variable annuity separate accounts and variable life separate accounts all invest in the same management investment company.

30. While there are differences in the manner in which distributions from Variable Contracts and Qualified Plans are taxed, the tax consequences do not raise any conflicts of interest. When distributions are to be made, and the Participating Separate Account or a Qualified Plan cannot net purchase payments to make the distribution, the Separate Account or the Plan will redeem shares of the Trust at their net asset value in conformity with Rule 22c–1 under the Act to provide proceeds to meet distribution needs. The Qualified Plan will then make distributions in accordance with the terms of the Plan. The life insurance company will surrender values from the Separate Account into the general account to make distributions in accordance with the terms of the Variable Contract.

31. It is possible to provide an equitable means of giving voting rights to Participating Separate Account contract owners and to Qualified Plans. The transfer agent for the Trust will inform each Participating Insurance Company of each Participating Separate Account's share ownership in the Trust, as well as inform the trustees of Qualified Plans of their holdings. The Participating Insurance Company then will solicit voting instructions in accordance with Rules 6e–2 and 6e–3(T), as applicable, and its participation agreement with the Trust. Shares held by Qualified Plans will be voted in accordance with applicable law. The voting rights provided to Qualified Plans with respect to shares of the Trust would be no different from the voting rights that are provided to Qualified Plans with respect to shares of funds sold to the general public.

32. The ability of the Trust to sell its shares directly to Qualified Plans does not create a ''senior security,'' as such term is defined under section 18(g) of the Act, with respect to any contract owner as opposed to a Qualified Plan participant. As noted above, regardless of the rights and benefits of Qualified Plan participants or contract owners, the Qualified Plans and the Participating Separate Accounts only have rights with respect to their respective shares of the Trust. They can only redeem such shares at their net asset value. No shareholder of any of the Trust has any preference over any other shareholder with respect to distribution of assets or payment of dividends.

33. There are no conflicts between the contract owners of Participating Separate Accounts and Qualified Plan participants with respect to the state insurance commissioners' veto powers (direct with respect to variable life and indirect with respect to variable annuity) over investment objectives. The basic premise of shareholder voting is that shareholders may not all agree with a particular proposal. While the interests and opinions of shareholders may differ, however, this does not mean that there are any inherent conflicts of interest between or among such shareholders. State insurance commissioners have been given the veto power in recognition of the fact that insurance companies usually cannot simply redeem their separate accounts out of one fund and invest in another. Generally, time-consuming, complex transactions must be undertaken to accomplish such redemptions and transfers. Trustees of Qualified Plans, on the other hand, can make the decision quickly and redeem their shares of the Trust and reinvest in another funding vehicle without the same regulatory impediments faced by separate accounts or, as is the case with most Plans, even hold cash pending suitable investment. Based on the foregoing, even if there should arise issues where the interests of contract owners and the interests of Qualified Plans are in conflict, the issues can be almost immediately resolved because the trustees of the Qualified Plans can, on their own, redeem the shares out of the Trust.

34. There does not appear to be any greater potential for material irreconcilable conflicts arising between the interests of Qualified Plan

participants and contract owners of Participating Insurance Companies from possible future changes in the federal tax laws than that which already exists between variable annuity and variable life insurance contract owners.

35. Applicants recognize that the foregoing is not an all inclusive list, but rather is representative of issues which they believe are relevant to this application. Applicants believe that the discussion contained herein demonstrates that the sale of shares of the Funds to Qualified Plans and Variable Contracts does not increase the risk of material irreconcilable conflicts of interest. Furthermore, the use of the Trust with respect to variable life insurance contracts and Qualified Plans is not substantially different from the Trust's current use, in that variable insurance contracts and Qualified Plans, like variable annuity contracts, are generally long-term retirement vehicles.

36. Various factors have prevented more insurance companies from offering variable annuity and variable life insurance contracts than currently do so. These factors include the costs of organizing and operating a funding medium, the lack of expertise with respect to investment management (principally with respect to stock and money market investments) and the lack of public name recognition as investment professionals. In particular, some smaller life insurance companies may not find it economically feasible, or within their investment or administrative expertise, to enter the Variable Contract business on their own.

37. Use of the Funds as common investment media for Variable Contracts would ameliorate these concerns. Participating Insurance Companies would benefit not only from the investment advisory and administrative expertise of Wachovia and its affiliates, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Therefore, making the Funds available for mixed and shared funding will encourage more insurance companies to offer Variable Contracts. This should result in increased competition with respect to both Variable Contract design and pricing, which can be expected to result in more product variation and lower charges. Contract owners would benefit because mixed and shared funding should eliminate a significant portion of the costs of establishing and administering separate funds.

38. Moreover, sale of the shares of the Funds to Qualified Plans should further increase the amount of assets available for investment by the Funds. This, in turn, should inure to the benefit of contract owners by promoting economies of scale, by permitting greater safety through greater diversification, and by making the addition of new series to the Trust more feasible.

39. Regardless of the type of shareholder in the Funds, Wachovia is or would be contractually or otherwise obligated to manage each Fund solely and exclusively in accordance with that series' investment objectives, policies and restrictions as well as any guidelines established by the board of trustees of the Trust.

Applicants' Conditions

Applicants consent to the following conditions:

1. A majority of the Board of Trustees of each Trust (''Board'') will consist of persons who are not ''interested persons'' of the Trust, as defined by section 2(a)(19) of the Act and the Rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any Trustee or Trustees, then the operation of this condition shall be suspended (a) for a period of 45 days if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. Each Board will monitor its respective Trust for the existence of any material irreconcilable conflict between the interests of the contract owners of all Participating Separate Accounts and of the participants in Qualified Plans investing in such Trust and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter-ruling, no-action or interpretive letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investment of such Trust are being managed; (e) a difference in voting instructions given by variable annuity contract owners and variable life insurance contract owners and trustees of the Qualified plans; (f) a decision by a Participating Insurance Company to disregard the voting instructions of contract owners; or (g) if applicable, a decision by a Plan to disregard the voting instructions of its participants.

3. Participating Insurance Companies, Wachovia or an affiliate, or any other investment adviser of the Trusts, and any Qualified Plans that execute a fund participation agreement upon becoming an owner of 10% or more of the assets of any Fund (''Participants'') will report any potential or existing conflicts to the relevant Board. Participants will be responsible for assisting the relevant Board in carrying out its responsibilities under these conditions by providing the relevant Board with all information reasonably necessary for the Board to consider any issues raised. This responsibility includes, but is not limited to, an obligation of each Participating Insurance Company to inform the relevant Board whenever it has determined to disregard contract owner voting instructions and, when pass-through voting is applicable, an obligation of each Plan to inform the Board whenever it has determined to disregard voting instructions from Plan participants. The responsibilities to report such information and conflicts and to assist the Board will be contractual obligations of all Participating Insurance Companies and Plans under their participation agreements with the Trusts, and such agreements shall provide, in the case of Participating Insurance Companies, that these responsibilities will be carried out with a view only to the interests of contract owners, and in the case of Qualified Plans, that these responsibilities will be carried out with a view only to the interest of Plan participants.

4. If it is determined by a majority of a Board, or by a majority of its disinterested Trustees, that a material irreconcilable conflict exists, the relevant Participating Insurance Companies and Plans will, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested Trustees), take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict, which steps could include: (a) withdrawing the assets allocable to some or all of the Participating Separate Accounts form the relevant Fund and reinvesting such assets in a different investment medium, which may include another Fund, or submitting the question of whether such reinvestment should be implemented to a vote of all affected contract owners and, as appropriate, segregating the assets of any appropriate group (*i.e,* variable annuity contract owners or variable life insurance contract owners of one or more Participating Insurance

Companies) that votes in favor of such segregation, or offering to the affected contract owners the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a Participating Insurance Company's decision to disregard contract owners' voting instructions and that decision represents a minority position or would preclude a majority vote, then that insurer may be required, at the relevant Trust's election, to withdraw its separate account's investment in such Trust, and no charge or penalty will be imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Plan's decision to disregard Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Plan may be required at the relevant Trust's election, to withdraw its investment in such Trust and no charge or penalty will be imposed as a result of such withdrawal. To the extent permitted by applicable law, the responsibility of taking remedial action in the event of a Board determination of material irreconcilable conflict and bearing the cost of such remedial action will be a contractual obligation of all Participating Insurance Companies and Qualified Plans under their agreements governing participation in the Trust and these responsibilities will be carried out with a view only to the interests of contract owners and Plan participants, respectively.

For purposes of this Condition 4, a majority of the disinterested Trustees of a Board will determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but in no event will the Trust, Wachovia, or Wachovia's affiliate, as relevant, be required to establish a new funding medium for any Variable Contract. No Participating Insurance Company shall be required by this Condition 4 to establish a new funding medium for any Variable Contract if an offer to do so has been declined by vote of a majority of contract owners materially and adversely affected by the material irreconcilable conflict. Further, no Qualified Plan will be required by this Condition 4 to establish a new funding medium for the Plan if (a) an offer to do so has been declined by vote of a majority of Plan participants materially and adversely affected by the material irreconcilable conflict or (b) pursuant to governing Plan documents and applicable law, the Plan makes such decision without a vote of its participants.

5. Any Board's determination of the existence of a material irreconcilable conflict and its implications will be made known promptly and in writing to all Participants.

6. As to Variable Contracts issued by Participating Separate Accounts registered under the Act, Participating Insurance Companies will provide pass-through voting privileges to all contract owners so long as the Commission interprets the Act to require pass-through voting for contract owners. However, as to Variable Contracts issued by unregistered Participating Separate Accounts, pass-through voting privileges will be extended to contract owners to the extent granted by the issuing insurance company. Accordingly, the Participating Insurance Companies will vote shares of the applicable Fund held in their Participating Separate Accounts in a manner consistent with voting instructions timely received from contract owners. Participating Insurance Companies will be responsible for assuring that each of their Participating Separate Accounts calculates voting privileges in a manner consistent with all other Participating Insurance Companies. The obligation to calculate voting privileges in a manner consistent with all other Participating Separate Accounts will be contractual obligation of all Participating Insurance Companies under their participation agreements with the Trusts. Each Participating Insurance Company will vote shares for which it has not received timely voting instructions, as well as shares attributable to it, in the same proportion as it votes shares for which it has received instructions.

7. Each Qualified Plan will vote as required by applicable law and governing Plan documents.

8. All reports of potential or existing conflicts received by a Board, and all Board action with regard to determining the existence of a conflict, notifying Participants of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

9. The Trusts will notify all Participants that disclosure in separate account prospectuses or any Qualified Plan prospectuses or other Plan disclosure documents regarding potential risks of mixed and shared funding may be appropriate. Each Trust will disclose in its prospectus that: (a) The Trust is intended to be a funding vehicle for variable annuity and variable life insurance contracts offered by various insurance companies and for Plans; (b) due to differences of tax treatment and other considerations, the interests of various contract owners participating in the Trust and the interest of Qualified Plans investing in the Trust may conflict; and (c) the Board will monitor the Trust for the existence of any material conflicts and determine what action, if any, should be taken.

10. The Trusts will comply with all provisions of the Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in shares of the Trusts), and, in particular, each Trust will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the Act not to require such meetings) or comply with section 16(c) of the Act (although the Trusts are not within the trusts described in section 16(c)) as well as with Section 16(a), and, if applicable, section 16(b) of the Act. Further, each Trust will act in accordance with the Commission's interpretation of the requirements of section 16(a) with respect to periodic elections of directors (or trustees) and with whatever rules the Commission may promulgate with respect thereto.

11. If and to the extent that Rules 6e–2 and 6e–3(T) are amended (or if Rule 6e–3 under the Act is adopted) to provide exemptive relief from any provision of the Act or the rules thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested by Applicants, then the Trusts and/or Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T), as amended, or Rule 6e–3, as adopted, to the extent applicable.

12. No less than annually, the Participants shall submit to each Board such reports, materials, or data as the Board may reasonably request so that the Board may carry out fully the obligations imposed upon it by the conditions contained in the application. Such reports, materials, and data shall be submitted more frequently if deemed appropriate by the Board. The obligations of the Participants to provide these reports, materials, and data to a Board when it so reasonably requests shall be a contractual obligation of all Participants under their participation agreements with the Trusts.

13. In the event that a Qualified Plan should ever become an owner of 10% or more of the assets of a Fund, such Qualified Plan will execute a participation agreement with the relevant Trust including the conditions set forth herein, to the extent applicable. A Qualified Plan will execute an application containing an acknowledgment of this condition at the time of its initial purchase of shares of the relevant Fund.

Conclusion

For the reasons summarized above, Applicants submit that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–27749 Filed 10–27–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43477); File No. SR–Phlx–00–84]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Amending PHLX Rule 237 to Extend the Pilot Program for eVWAP until November 30, 2001

October 23, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 1, 2000, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange''), filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission''). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by Exchange. On October 18, 2000, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Exchange filed the proposed rule change, as amended, pursuant to Section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot program for the Volume Weighted Average Price Trading System (''eVWAP'' or ''System'') until November 30, 2001.

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 Exchange 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 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

The eVWAP is a pre-opening order matching session for the electronic execution of large-sized stock orders at the volume weighted average price. The Exchange received Commission approval to operate eVWAP as a one year pilot on March 24, 1999.[6] The System became operational on August 27, 1999. As a condition to the pilot program, the Commission requested that the Exchange prepare a comprehensive report pertaining to the operation and effectiveness of the eVWAP.[7]

The Exchange now proposes to extend the current pilot program until November 30, 2001. Extension of the pilot program for another year will allow the Exchange and the Commission additional time to assess the effectiveness of the System and its impact on investors and the market as a whole.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act[8] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, 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, as amended, will result in any burden on competition that is 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 has neither solicited nor received written comments on the proposed rule change, as amended.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6)[10] thereunder because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which the proposed rule change was filed, or such shorter time as the Commission may designate. At any time within 60 days

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* October 18, 2000 letter from Linda Christie, Exchange, to Heidi Pilpel, Special Counsel, Division of Market Regulation, SEC (''Amendment No. 1''). In Amendment No. 1, the Exchange requested that the proposed rule change be filed under Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder. 15 U.S.C. 78s(b)(3)(A) and 17 CFR 240.19b–4(f)(6). The Exchange also requested that the Commission treat the original proposed rule change as the 5 day prefiling notice required under Rule 19b–4(f)(6); and requested that the Commission waive the 30-day period before the proposal becomes effective to permit the proposed rule change to become immediately effective.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] *See* Securities Exchange Act Release No. 41210 (March 24, 1999), 64 FR 15857 (April 1, 1999), (SR–Phlx–96–14).

[7] The Commission requested that the Exchange provide a report that: (i) addresses the overall reliability of the System and identifies any System outages or other technical problems; (ii) provides a summary of the Exchange's surveillance efforts; (iii) discusses the strategies employed by the users and committers and evaluates whether the system is useful to market participants; (iv) provides feedback from Exchange members and non-members regarding their experience with the system; and (v) measures the system's impact and effect on the primary market of eligible securities. The Exchange submitted its report in September 2000, which report identified no significant problems with the operation of the System.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Commission finds that it is appropriate to accelerate the effective date of the proposed rule change and to permit the proposed rule change to become immediately effective because the proposal simply extends a previously approved pilot program. By extending the pilot program, the Commission will enable the Exchange to continue to offer the System without interruption, and will allow the Commission and the Exchange to further assess the effectiveness of the System and its impact on investors and the market as a whole. In addition, the Commission finds that the Exchange provided the required prefiling written notice of its intent to file this proposed rule change when it filed the original proposed rule change.[11]

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 Exchange. All submissions should refer to File No. SR–Phlx–00–84 and should be submitted by November 20, 2000.

[11] For purposes only of accelerating the operative date of this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–27719 Filed 10–27–00; 8:45 am]

BILLING CODE 8010–01–M

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3304]

State of Michigan

As a result of the President's major disaster declaration on October 17, 2000, I find that Wayne County, Michigan constitutes a disaster area due to damages caused by severe storms and flooding that occurred September 10–11, 2000. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 16, 2000 and for economic injury until the close of business on July 17, 2001, at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Macomb, Monroe, Oakland, and Washtenaw in the State of Michigan may be filed until the specified date at the above location.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.375
Homeowners without credit available elsewhere	3.687
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	6.750
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster are 330406 for physical damage and 9J3400 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 20, 2000.

Allan I. Hoberman,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 00–27782 Filed 10–27–00; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

In compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, comments and recommendations regarding the information collections would be most useful if received by the Agency within 60 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer at the address listed at the end of this publication. You can obtain a copy of the collection instruments by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed at the end of this publication.

1. Child Relationship Statement—0960–0116. The Social Security Administration (SSA) uses the information collected on Form SSA–2519 to help determine the entitlement of children to Social Security benefits under section 216(h)(3) of the Social Security Act (Deemed Child Provision). The respondents are persons providing information about the relationship between the worker and his/her alleged biological child, in connection with the child's application for benefits.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 12,500 hours.

2. Request to Resolve Questionable Quarters of Coverage (QC); Request for QC History Based on Relationship—0960–0575. Form SSA–512 is used by the States to request clarification from

SSA on questionable QCs information. The Personal Responsibility and Work Opportunity Reconciliation Act states that aliens admitted for lawful residence who have worked and earned 40 qualifying QCs for Social Security purposes can generally receive State benefits. Form SSA–513 is used by States to request QC information for an alien's spouse or child in cases where the alien does not sign a consent form giving permission to access his/her Social Security records. QCs can also be allocated to a spouse and/or to a child under age 18, if needed, to obtain 40 qualifying QCs for the alien. The respondents are State agencies, which require QC information in order to determine eligibility for benefits.

	SSA–512	SSA–513
Number of Respondents	200,000	350,000
Frequency of Response	1	1
Average Burden Per Response (minute)	2	2
Estimated Annual Burden (hours)	6,667	11,667

II. The information collections listed below will be submitted to OMB for clearance. Written comments and recommendations on the information collections would be most useful if received within 30 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer and the OMB Desk Officer at the addresses listed at the end of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him.

1. Employment Relationship Questionnaire—0960–0040. SSA uses the information collected on Form SSA–7160 to determine whether the numberholder is self-employed or an employee. The respondents are applicants for Social Security Benefits and/or employers.

Number of Respondents: 47,500.

Frequency of Response: 1.

Average Burden Per Response: 25 minutes.

Estimated Annual Burden: 19,792 hours.

2. On May 31, 2000, SSA announced its intention to competitively award cooperative agreements to establish community-based benefits planning, assistance and outreach (BPAO) projects. The overall goal of the projects is to disseminate accurate information to beneficiaries with disabilities (including transition-to-work aged youth) about work incentives programs and issues related to such programs, to enable them to make informed choices about work.

The BPAO project managers will collect data from Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) beneficiaries who request BPAO services. The BPAO project managers and SSA will use the data to manage the projects and to determine what additional resources or other approaches may be needed to improve the process. The data is needed to determine the efficacy of the program and to ensure that those dollars appropriated for BPAO services are actually being used for SSA beneficiaries. The data will also be valuable to SSA in its analysis of and future planning for the SSDI and SSI programs.

BPAO projects will collect data on:

- Beneficiary background information;
- Beneficiary employment information;
- Beneficiary training information;
- Beneficiary benefits information;
- Beneficiary work incentives information;
- Services to which BPAO projects refer beneficiaries; and
- Cumulative BPAO activities performed.

Number of Respondents: 500,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 250,000 hours.

(SSA Address)—Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

(OMB Address)—Office of Management and Budget, OIRA, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503.

Dated: October 24, 2000.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 00–27711 Filed 10–27–00; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 3458]

Culturally Significant Objects Imported for Exhibition Determinations: ''Art and the Camera: The Photographs of F. Holland Day''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations.

Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended by Delegation of Authority No. 236–3 of August 28, 2000 [65 FR 53795], I hereby determine that the objects to be included in the exhibit, ''Art and the Camera: The photographs of F. Holland Day,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with a foreign lender. I also determine that the temporary exhibition or display of the exhibit objects at the Museum of Fine Arts, Boston, Massachusetts from on or about December 6, 2000, to on or about March 25, 2002, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is SA–44, Room 700, United States Department of State, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: October 23, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 00–27804 Filed 10–27–00; 8:45 am]

BILLING CODE 4710–08–M

DEPARTMENT OF STATE

[Public Notice 3457]

Culturally Significant Objects Imported for Exhibition Determinations: ''Modern Art and America: Alfred Stieglitz and His New York Galleries''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby

determine that the objects to be included in the exhibition ''Modern Art and America: Alfred Stieglitz and His New York Galleries,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at the National Gallery of Art, in Washington, DC from on or about January 28, 2001 to on or about April 22, 2001 is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–619–6981). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: October 23, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 00–27803 Filed 10–27–00; 8:45 am]

BILLING CODE 4710–08–U

DEPARTMENT OF STATE

[Public Notice 3456]

Culturally Significant Objects Imported for Exhibition Determinations: ''Ukrainian Silver Jewish Ceremonial Objects''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Ukrainian Silver Jewish Ceremonial Objects,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at the American Jewish Congress, in New York, NY from on or about December 4, 2000 to on or about December 22, 2000 is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6981). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: October 23, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 00–27802 Filed 10–27–00; 8:45 am]

BILLING CODE 4710–08–U

DEPARTMENT OF STATE

[Public Notice # 3447]

Overseas Security Advisory Council (OSAC) Renewal

The Department of State has renewed the Charter of the Overseas Security Advisory Council. This advisory council will continue to interact on overseas security matters of mutual interest between the U.S. Government and the American private sector. The Council's initiatives and security publications provide a unique contribution to protecting American private sector interests abroad. The Under Secretary for Management has determined that the Council is necessary and in the public interest.

The Council consists of representatives from four (4) U.S. Government agencies and thirty (30) American private sector companies and organizations. The Council will follow the procedures prescribed by the Federal Advisory Committee Act (FACA) (Pub. L. 92–463). Meetings will be open to the public unless a determination is made in accordance with Section 10(d) of the FACA, 5 U.S.C. 552b(c)(1) and (4), that a meeting or a portion of the meeting should be closed to the public. Notice of each meeting will be provided in the **Federal Register** at least 15 days prior to the meeting.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Bureau of Diplomatic Security, U.S. Department of State, Washington, DC 20522–1003, phone: 202–663–0533.

October 18, 2000.

Peter E. Bergin,

Director of the Diplomatic Security Service.

[FR Doc. 00–27800 Filed 10–27–00; 8:45 am]

BILLING CODE 4710–24–U

DEPARTMENT OF STATE

[Public Notice #: 3446]

U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy, reauthorized pursuant to Public Law 106–113 (H.R. 3194, Consolidated Appropriations Act, 2000), will meet on Thursday, November 9, 2000 in Room 600, 301 4th St., SW, Washington, DC from 10:30 am to 12 noon.

The Commission will discuss FY2001 activities, follow-up to its report on consolidation, and a review of the Smith-Mundt Act and its applicability in this day and age for public diplomacy.

Members of the general public may attend the meeting, though attendance of public members will be limited to the seating available. Access to the building is controlled, and individual building passes are required for all attendees. Persons who plan to attend should contact David J. Kramer, Executive Director, at (202) 619–4463.

Dated: October 23, 2000.

David J. Kramer,

Executive Director, U.S. Advisory Commission on Public Diplomacy.

[FR Doc. 00–27799 Filed 10–27–00; 8:45 am]

BILLING CODE 4710–11–U

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Services (ISAC–13)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of Meeting.

SUMMARY: The Industry Sector Advisory Committee on Services (ISAC–13) will hold a meeting on November 1, 2000, from 9:30 a.m. to 12:00 noon. The meeting will be opened to the public from 9:30 a.m. to 10:30 a.m. and closed to the public from 10:30 a.m. to 12:00 noon.

DATES: The meeting is scheduled for November 1, 2000, unless otherwise notified.

ADDRESSES: The meeting will be held at the Department of Commerce, Room 6800, located at 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karen Holderman, (202) 482–0345, Department of Commerce, 14th St. and Constitution Ave., NW., Washington,

DC 20230, or Dominic Bianchi, Office of the United States Trade Representative, 1724 F St. NW., Washington, DC 20508, (202) 395–6120.

SUPPLEMENTARY INFORMATION: During the opened portion of the meeting the ISAC members will comment and make recommendations on the reform of the trade advisory system.

Dominic Bianchi,

Acting Assistant United States Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 00–27862 Filed 10–26–00; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 25.24, Sustained Engine Imbalance

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 25,24, Sustained Engine Imbalance. This AC sets forth an acceptable means, but not the only means, of demonstrating compliance with the provisions of title 14, Code of Federal Regulations (14 CFR), part 25 related to the aircraft design for sustained engine rotor imbalance for transport category airplanes. Like all ACs, it is not regulatory but is to provide guidance for applicants in demonstrating compliance with the objective safety standards set forth in the rule.

DATES: Advisory Circular 25.24 was issued by the Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100, on August 2, 2000.

ADDRESSES: *How to Obtain Copies.* A copy may be obtained by writing to the U.S. Department of Transportation, Subsequent Distribution Office, DOT Warehouse, SVC–121.23, 3341Q 75th Ave., Landover, MD 20785, telephone 301–322–5377, or faxing your request to the warehouse at 301–386–5394. This AC can be found and downloaded from the Internet at http://www.faa.gov/avr/air/airhome.htm, at the link titled ''Advisory Circulars.''

Issued in Renton, Washington, on October 4, 2000.

Dorenda D. Baker,

Acting Manager Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–27448 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In September 2000, there were six applications approved. Additionally, 10 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of San Angelo, Texas.

Application Number: 00–04–U–SJT.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue To Be Used in This Decision: $96,410.

Charge Effective Date: December 1, 1998.

Estimated Charge Expiration Date: July 1, 2006.

Class of Air Carriers Not Required To Collect PFC'S: No change from previous decision.

Brief Description of Projects Approved For Use: Acquire ramp/runway sweeper. Relocate aircraft rescue and firefighting facility.

Decision Date: September 15, 2000.

FOR FURTHER INFORMATION CONTACT: G. Thomas Wade, Southwest Region Airports Division, (817) 222–5613.

Public Agency: Beaufort County Council, Hilton Head Island, South Carolina.

Application Number: 00–02–I–00–HXD.

Application Type: Impose a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $2,076,657.

Earliest Charge Effective Date: December 1, 2000.

Estimated Charge Expiration Date: October 1, 2007.

Class of Air Carriers Not Required to Collect PFC'S: Part 135 (non-scheduled) carriers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Hilton Head Island Airport.

Brief Description of Projects Approved for Collection: Land acquisition. General aviation development.

Decision Date: September 22, 2000.

FOR FURTHER INFORMATION CONTACT: Tracie L. Dominy, Atlanta Airports District Office, (404) 305–7148.

Public Agency: Bloomington-Normal Airport Authority, Bloomington, Illinois.

Application Number: 00–03–U–00–BMI.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue To Be Used in This Decision: $20,141,929.

Charge Effective Date: December 1, 2010.

Estimated Charge Expiration Date: April 1, 2024.

Class of Air Carriers Not Required To Collect PFC'S: No change from previous decision.

Brief Description of Projects Approved for Use: Construct new terminal development area.

Decision Date: September 26, 2000.

FOR FURTHER INFORMATION CONTACT: Denis Rewerts, Chicago Airports District Office, (847) 294–7195.

Public Agency: City of St. Louis Airport Authority, St. Louis, Missouri.

Application Number: 00–06–C–00–STL.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $847,915,232.

Earliest Charge Effective Date: September 1, 2001.

Estimated Charge Expiration Date: January 1, 2018.

Class of Air Carriers Not Required To Collect PFC'S: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Lambert-St. Louis Internation Airport.

Brief Description of Projects Approved for Collection and Use: Balance of real property acquisition for airport expansion parcels. Carrollton Schools replacement facility. Program management (includes program management/airport development program consultant fees). Site development and roadway infrastructure.

Decision Date: September 28, 2000.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, Central Region Airports Division, (816) 329–2641.

Public Agency: City of Cleveland, Ohio.

Application Number: 00–07–U–00–CLE.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue To Be Used in This Decision: $6,675,642.

Charge Effective Date: November 1, 1995.

Estimated Charge Expiration Date: March 1, 2008.

Class of Air Carriers Not Required to Collect PFC'S: No change from previous decision.

Brief Description of Projects Approved for Use: National Aeronautics and Space Administration feasibility and pre-engineering study: relocation of engine test facility. Waste water—glycol collection system construction.

Decision Date: September 28, 2000.

FOR FURTHER INFORMATION CONTACT: Robert L. Conrad, Detroit Airports District Office, (734) 487–7295.

Public Agency: City of Oklahoma City, Oklahoma.

Application Number: 00–03–C–00–OKC.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $115,253,750.

Earliest Charge Effective Date: April 1, 2001.

Estimated Charge Expiration Date: May 1, 2019.

Classes of Air Carriers Not Required to Collect PFC'S: Part 135 on demand air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Will Rogers World Airport.

Brief Description of Projects Approved for Collection and Use:

Terminal renovation and expansion, phases I and II.

Acquire and install 17 passenger loading bridges.

Acquire and install baggage make-up system.

Decision Date: September 29, 2000.

FOR FURTHER INFORMATION CONTACT: G. Thomas Wade, Southwest Region Airports Division, (817) 222–5613.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
97–03–C–01–EYW, Key West, FL	07/27/00	$1,860,000	$1,760,000	03/01/00	12/01/99
95–03–C–01–YKM, Yakima, WA	09/07/00	220,000	178,850	07/01/96	07/01/96
96–02–C–04–DFW, Dallas/Fort Worth, TX	09/26/00	72,113,120	90,172,120	05/01/01	06/01/01
98–04–U–01–DFW, Dallas/Fort Worth, TX	09/26/00	NA	NA	05/01/01	06/01/01
97–02–C–01–DRO, Durango, CO	09/28/00	606,983	593,570	08/01/00	08/01/00
92–01–C–03–STL, St. Louis, MO	09/28/00	97,297,850	71,642,933	04/01/96	08/01/95
95–02–C–05–STL, St. Louis, MO	09/28/00	108,214,867	91,640,971	07/01/98	07/01/97
98–04–I–02–STL, St. Louis, MO	09/28/00	155,000,000	178,756,391	01/01/02	09/01/01
99–05–U–01–STL, St. Louis, MO	09/28/00	NA	NA	01/01/02	09/01/01
97–01–C–01–ATL, Atlanta, GA	09/29/00	491,370,084	948,059,706	02/01/04	05/01/05

(**Note:** This amendment also changes the PFC level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger, effective April 1, 2001.)

Issued in Washington, DC. on October 24, 2000.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 00–27750 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2000–8136]

Agency Information Collection Activities; Request for Comments; Clearance of a New Information Collection; Heavy Vehicle Travel Information System

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection. The collection involves information on truck travel miles to be included in the Heavy Vehicle Travel Information System (HVTIS). We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by December 29, 2000.

ADDRESSES: You may mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590; telefax comments to 202/493–2251; or submit electronically at *http://dmses.dot.gov/submit.* All comments should include the docket number in this notice's heading. All comments may be examined and copied at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you desire a receipt you must include a self-addressed stamped envelope or postcard or, if you submit your comments electronically, you may print the acknowledgment page.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Kashuba, 202–366–0160, Office of Highway Policy Information, Policy Service Business Unit, Federal Highway Administration, Department of Transportation, 400 7th Street, SW., Washington, DC 20590–0001. Office hours are from 6:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Heavy Vehicle Travel Information System (HVTIS).

Background: Title 49, United States Code, Section 301, authorizes the DOT to collect statistical information relevant to domestic transportation. Title 23, United States Code, Section 307, authorizes the DOT to engage in studies to collect data for planning future highway programs. The FHWA is developing the HVTIS to house data that would be used to analyze the amount

and nature of truck travel at the national and regional levels. The information would be used by the FHWA and other DOT administrations to evaluate changes in truck travel in order to assess impacts on highway safety; the role of travel in economic productivity; impacts of changes in truck travel on infrastructure condition; and maintaining our mobility while protecting the human and natural environment. The increasing dependence on truck transport requires that data be available to better assess its overall contribution to the Nation's well-being. In conducting the data collection, the FHWA will be requesting that State Departments of Transportation provide periodic reporting of vehicle classification and weight data which they collect as part of their existing traffic data collection programs. The majority of States collect this vehicle weight data periodically throughout the year using weigh-in-motion devices and also collect vehicle classification data continuously. The data will allow transportation professionals at the Federal, state and metropolitan levels to make informed decisions about policies and plans.

Respondents: 51 State Transportation Departments, including the District of Columbia.

Frequency: It is proposed that continuous vehicle classification data be reported on a monthly basis to assure timely information that can be compared to monthly reports of economic activity. Based on data collection practices in common use by the State Transportation Departments, it is proposed that data collected using weigh-in-motion devices be submitted to FHWA annually.

Estimated Average Burden per Response: The average State Transportation Department operates 40 continuous vehicle classification installations as well as 10 weigh-in-motion sites. It is estimated that the additional processing necessary to make 48 hours of weigh-in-motion data available to FHWA would be 6 minutes per site per year and that processing one month of vehicle classification data would take 5 minutes per site per month.

Estimated Total Annual Burden Hours: 41 per State; 2,091 total.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burdens could be minimized, including use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Electronic Access: Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help. An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at telephone number 202–512–1661. Internet users may reach the **Federal Register**'s home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: October 24, 2000.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. 00–27725 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Santa Rosa, Sonoma County; California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Santa Rosa, Sonoma County, California.

FOR FURTHER INFORMATION CONTACT: Mr. C. Glenn Clinton, Team Leader, Project Delivery Team, Federal Highway Administration, 980 9th Street, Sacramento, California 95814–2724, Telephone: (916) 498–5020.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans), will prepare an environmental impact statement (EIS) for a proposal to construct a median widening to accommodate a high occupancy vehicle lane (HOV) through the City of Santa Rosa, Sonoma County, California. State Route 101, completed in the 1960's, is a major link in the interregional road system, and the most important north-south route within Sonoma County. The level of service (LOS) on the 4.5 kilometer (2.7 mile) stretch of four lane freeway through downtown Santa Rosa between the Route 12/101 interchange and the Steele Lane Interchange has deteriorated, leading to traffic delays. This is caused by accidents, vehicle breakdowns, and principally by congestion. A recent study by Caltrans' Office of Highway Operations shows that LOS on this section is at the lowest level. This is indicated by traffic at roadway capacity, when speeds may drop to zero with high densities. Average speed is less than 25 miles per hour with considerable delays. The continued maintenance and operation of Route 101 as an efficiently operating mainline facility will be further impacted by increasing congestion if steps are not taken to improve its operation.

Alternatives currently under consideration are: (1) Widening into the median to accommodate HOV lanes in each direction, as well as auxiliary lanes, ramp widening, alteration or replacement of the bridge spanning Santa Rosa Creek and modification of intersection at ramp termini and (2) not constructing the project. If this project is approved, construction will begin in late 2004 and continue through 2007. The primary objective for this proposed project is to improve the travel times, increase safety, and reduce congestion on a major regional connector.

Because this project has been under consideration for several years, a previous scoping meeting was held on October 27, 1999, to present project proposals to the public. Since the decision to prepare an Environmental Impact Statement was made, a new scoping meeting has been scheduled for November 29, 2000, as is required by the National Environmental Policy Act (NEPA). The new public meeting will be held at Santa Rosa Middle School, between 5:00 and 8:00 p.m., so that the public may review the alternative under consideration and provide written comments if desired. A public hearing will be held later in the environmental process, after the Draft Environmental Impact Statement is completed.

Issued on: October 24, 200.

C. Glenn Clinton,

Team Leader, Program Delivery Team, North Sacramento, California.

[FR Doc. 00–27756 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2000–7616; Notice 2]

Piaggio & c., S.p.A.; Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 123

This notice grants the application by Piaggo & c., S.p.A. (''Piaggio''), an Italian corporation, of Pontedera, Italy, for a temporary exemption of two years from a requirement of S5.2.1 (Table 1) of Federal Motor Vehicle Safety Standard No. 123 *Motorcycle Controls and Displays*. The basis of the request was that ''compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles,'' 49 U.S.C. 30113(b)(3)(B)(iv).

Notice of receipt of the application was published on July 17, 2000, and an opportunity afforded for comment (65 FR 44093).

Piaggio applied on behalf of its Vespa ET4 (125 and 150 cc) motor scooters. The scooters are defined as ''motorcycles'' for purposes of compliance with the Federal motor vehicle safety standards. If a motorcycle is produced with rear wheel brakes, S5.2.1 of Standard No. 123 requires that the brakes be operable through the right foot control (the left handlebar is permissible only for a motor driven cycle (Item 11, Table 1), *i.e.,* a motorcycle with a motor that produces 5 brake horsepower or less).

Piaggio petitioned that it be allowed to use the left handlebar as the control for the rear brakes of its Vespa ET4, which is a motorcycle and not a motor driven cycle. The model features an automatic clutch that eliminates the left-hand clutch lever as well as any left-foot gearshift lever. According to Piaggio, ''the motor scooter is therefore very similar to a bicycle, both in ergonomic stance and operation.'' The model will feature a hand-actuated lever on the left handlebar that will actuate the rear brake, and a hand-actuated lever on the right handlebar that will control the front brake.

Piaggio argued that the overall level of safety of the scooters equals or exceeds that of a motorcycle that complies with the brake control location requirement of Standard No. 123. The Vespa ET4 is equipped with disc brakes on the front wheels, and ''easily meets and exceeds all the performance requirements of FMVSS 122'' for motorcycle brake systems. The vehicle meets the braking performance requirements of ECE 93/14 as well.

Piaggio averred that no other country in Europe, Japan, or elsewhere in Asia requires scooters to be equipped with a right foot-operated brake control. Absent an exemption, then, Piaggio will be unable to sell the Vespa ET4 in the United States. Piaggio ''is in the process of introducing a complete modification of the Vespa braking system to conform with FMVSS 123,'' and intends to complete its development work during the two-year period that its exemption would be in effect.

Piaggio will not sell more than 2,500 scooters a year while an exemption is in effect. The exemption would cover Model Year 2001 and 2002 vehicles. The company believes that an exemption would be consistent with the objectives of traffic safety because the vehicle provides ''for much more natural braking response by the rider than non-exempt vehicles.'' Extended use in Europe and the rest of the world has not resulted in either consumer groups or governmental authorities raising any safety concerns. The exemption would also be in the public interest because it is ''environmentally clean and fuel efficient * * * convenient urban transportation.''

We received five comments, all supporting granting Piaggo's application.

Piaggio's request is not a new one, as we have exempted three other motorcycle manufacturers from S5.2.1 (Aprilia, 64 FR 44262, re-issued at 65 FR 1225; Vectrix, 64 FR 45585; and Italjet, 64 FR 58127). Our concern about a lack of standardization of the rear brake control for scooter-type vehicles was addressed by Aprilia in its petition which included a report on ''Motorscooter Braking Control Study,'' available for examination in Docket No. NHTSA–99–4357. This report indicated that test subjects' brake reaction times using a vehicle configured like Piaggio's were approximately 20% quicker than their reaction times on the conventional motorcycle. We interpreted the report as indicating that a rider's braking response is not likely to be degraded by the different placement of brake controls, and cited it in granting the similar petition by Vectrix. In Piaggio's case, the favorable comments appear to sustain our previous conclusions. We intend to initiate rulemaking to amend Standard No. 123 to address the location of the brake control on vehicles with automatic transmissions, such as the petitioner manufactures.

With respect to the public interest and the objectives of motor vehicle safety, the overall level of safety, as Piaggio argues, appears at least equal to that of vehicles certified to comply with Standard No. 123. We note that the vehicle meets the braking performance requirements of ECE 93/14 as well. The comments make convincing arguments that an exemption would be in the public interest by making available a compact, fuel-efficient vehicle for urban use that would not otherwise be available without an exemption.

In consideration of the foregoing, we hereby find that Piaggio has met its burden of persuasion that, to require compliance with Standard No. 123 would prevent the manufacturer from selling a motor vehicle with an overall level of safety at least equal to the overall safety level of nonexempt vehicles. We further find that a temporary exemption is in the public interest and consistent with the objectives of motor vehicle safety. Accordingly, Piaggio & c. S.p.A. is hereby granted NHTSA Temporary Exemption No. EX2000–3 from the requirements of item 11, Column 2, Table 1 of 49 CFR 571.123 Standard No. 123 Motorcycle Controls and Displays, that the rear wheel brakes be operable through the right foot control. This exemption applies only to the Vespa ET4 and will expire on October 1, 2002.

Issued on October 23, 2000.

Sue Bailey,

Administrator.

[FR Doc. 00–27724 Filed 10–27–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 581X)]

CSX Transportation, Inc.—Abandonment Exemption—in Fayette and Raleigh Counties, WV

CSX Transportation, Inc. (CSXT) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a line of railroad between milepost CAX0.0, near Mill Creek Junction, and milepost CAX4.8, near Garden Ground, a distance of approximately 4.8 miles, in Fayette and Raleigh Counties, WV (line). The line traverses United States Postal Service Zip Code 25880 (and possibly 25906).

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of

such user) regarding cessation of service over the line is either pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 29, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 9, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 20, 2000, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: Natalie S. Rosenberg, Esq., CSX Transportation, Inc., 500 Water Street, J150, Jacksonville, FL 32202. If the verified notice contains false or misleading information, the exemption is void *ab initio.*

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by November 3, 2000. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by CSXT's filing of a notice of consummation by October 30, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: October 19, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–27562 Filed 10–27–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–183 (Sub–No. 3X)]

Union Railroad Company—Abandonment Exemption—in Allegheny County, PA

Union Railroad Company (URR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances* to abandon and discontinue service over its line of railroad known as the Rankin Branch extending from point of switch Survey Station 158+50 of Turnout MU–18, and extending from that point over and across the Rankin Hot Metal Bridge to a rail connection with the Railroad's so-called Wildcat Track at Survey Station 48+35 in the Borough of Rankin, Allegheny County, PA, a distance of 0.89 miles.[1] The line traverses United States Postal Service Zip Codes 15120 and 15104.

URR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 29, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 9, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 20, 2000, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Christopher T. Como, Attorney and Assistant Secretary, Union Railroad Company, 135 Jamison Lane, Monroeville, PA 15146.

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[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

[1] Pursuant to 49 CFR 1150.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. While the applicant initially indicated a proposed consummation date of November 28, 2000, because the verified notice was filed on October 10, 2000, consummation may not take place prior to November 29, 2000. Applicant's representative has subsequently confirmed that the correct consummation date is on or after November 29, 2000.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

URR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by November 3, 2000. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), URR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by URR's filing of a notice of consummation by October 30, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Decided: October 19, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–27440 Filed 10–27–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collections; Comment Requests

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on two information collections that are due for renewed approval by the Office of Management and Budget. The Office of International Financial Analysis within the Department of the Treasury is soliciting comments concerning Treasury International Capital Form BL–3, Intermediary's Notification of Foreign Borrowing Denominated in Dollars; and Treasury International Capital Form CM, Dollar Deposit and Certificate of Deposit Claims on Banks Abroad.

DATES: Written comments should be received on or before December 29, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, Administrator, International Portfolio Investment Data Reporting Systems, Department of the Treasury, Room 5205 MT, 1500 Pennsylvania Avenue, NW, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Dwight Wolkow, Administrator, International Portfolio Investment Data Systems, Department of the Treasury, Room 5205 MT, 1500 Pennsylvania Avenue, NW, Washington, DC 20220, Ph: (202) 622–1276, Fax (202) 622–7448.

SUPPLEMENTARY INFORMATION: *Titles:* Treasury International Capital Form BL–3, Intermediary's Notification of Foreign Borrowing Denominated in Dollars; and Treasury International Capital Form CM, Dollar Deposit and Certificate of Deposit Claims on Banks Abroad.

OMB Numbers: 1505–0088 and 1505–0023.

Abstracts: Forms BL–3 and CM are part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; EO 10033; 31 CFR 128), and are designed to collect timely information on international portfolio capital movements. Form BL–3 is a monthly report used to strengthen compliance with existing TIC reporting requirements, whereby a U.S. bank advises its domestic nonbank customers of their responsibilities to report as liabilities on TIC Form CQ–1 their loans from foreigners that the bank will not include among its reportable custody liabilities to foreigners on TIC Form BL–2. Form CM is a monthly report whereby nonbanking enterprises in the U.S. report their total dollar deposit and certificate of deposit claims on foreign banks. This information is necessary for compiling the U.S. balance of payments accounts, for calculating the U.S. international investment position, and for use in formulating U.S. international financial and monetary policies.

Current Actions: No changes to reporting requirements for either form are proposed at this time.

Type of Review: Extensions.

Affected Public: Business or other for-profit organizations.

Form BL–3 (1505–0088).

Estimated Number of Respondents: 25.

Estimated Average Time per Respondent: 30 minutes per respondent per filing.

Estimated Total Annual Burden Hours: 150 hours, based on twelve reporting periods per year.

Form CM (1505–0023).

Estimated Number of Respondents: 55

Estimated Average Time per Respondent: 30 minutes per respondent per filing.

Estimated Total Annual Burden Hours: 330 hours, based on twelve reporting periods per year.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the requests for OMB approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: whether Forms BL–3 and CM are necessary for the proper performance of the functions of the Office, including whether the information collected has practical uses; the accuracy of the above burden estimates; ways to enhance the quality, usefulness, and clarity of the information to be collected; ways to minimize the reporting and/or recordkeeping burdens on respondents, including the use of information technologies to automate the collection of the data; and estimates of capital or start-up costs of operation, maintenance, and purchases of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 00–27709 Filed 10–27–00; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Environmental Hazards, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Veterans' Advisory Committee on Environmental hazards will be held on Wednesday and Thursday, November 29–30, 2000, in room 430 of VA Central Office, 810 Vermont Avenue, N.W., Washington, DC 20420. The meting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on both days.

The purpose of the meeting is to review information relating to the health effects of exposure to ionizing radiation. The major items on the agenda for both days will be discussions and analyses of medical and scientific papers concerning the health effects of

exposure to ionizing radiation. On the basis of their analyses and discussions, the Committee may make recommendations to the Secretary concerning diseases that are the result of exposure to ionizing radiation. The agenda for the second day will include planning future Committee activities and assignment of tasks among the members.

The meeting is open to the public on both days. Those who wish to attend should contact Ersie Farber-Collins of the Department of Veterans Affairs, Compensation and Pension Service, 810 Vermont Avenue, N.W., Washington, DC 20420, prior to November 27, 2000. Ms. Farber-Collins may also be reached at 202–273–7268.

Members of the public may submit written questions or prepared statements for review by the Advisory Committee in advance of the meeting. Submitted material must be received at least five (5) days prior to the meeting and should be sent to Ms. Farber-Collins' attention at the address given above. Those who submit material may be asked to clarify it prior to its consideration by the Advisory Committee.

Dated: October 23, 2000.

By Direction of the Secretary.

Marvin Eason,

Committee Management Officer.

[FR Doc. 00–27727 Filed 10–27–00; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Monday,
October 30, 2000

Part II

Environmental Protection Agency

Final Reissuance of National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit for Industrial Activities; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6880–5]

Final Reissuance of National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit for Industrial Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final NPDES general permit.

SUMMARY: The Regional Administrators of EPA Regions 1, 2, 3, 4, 6, 8, 9 and 10 are today reissuing EPA's NPDES Storm Water Multi-Sector General Permit (MSGP). This general permit was first issued on September 29, 1995 (60 FR 50804), and amended on February 9, 1996 (61 FR 5248), February 20, 1996 (61 FR 6412), September 24, 1996 (61 FR 50020), August 7, 1998 (63 FR 42534) and September 30, 1998 (63 FR 52430). The reissuance of the MSGP was proposed by EPA on March 30, 2000 (65 FR 17010). Today's final MSGP will authorize the discharge of storm water from industrial facilities consistent with the terms of the permit.

DATES: This MSGP shall be effective on October 30, 2000. This effective date is necessary to provide dischargers with the immediate opportunity to comply with Clean Water Act requirements in light of the expiration of the existing MSGP on October 1, 2000. Deadlines for submittal of notices of intent are provided in Section VI.A.2 of this fact sheet and Part 2.1 of the MSGP. Today's MSGP also provides additional dates for compliance with the terms of the permit.

ADDRESSES: The index to the administrative record for the final MSGP is available at the appropriate Regional Office or from the EPA Water Docket Office in Washington, DC. The administrative record, including documents immediately referenced in this reissuance notice and applicable documents used to support the original issuance of the MSGP in 1995, are stored at the EPA Water Docket Office at the following address: Water Docket, MC–4101, U.S. EPA, 401 M Street SW, room EB57, Washington, DC 20460. The records are available for inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. For appointments to examine any portion of the administrative record, please call the Water Docket Office at (202) 260–3027. A reasonable fee may be charged for copying. Specific record information can also be made available at the appropriate Regional Office upon request.

FOR FURTHER INFORMATION CONTACT: For further information on the final MSGP, contact the appropriate EPA Regional Office. The name, address and phone number of the EPA Regional Storm Water Coordinators are provided in Section VI.F of this fact sheet. Information is also available through the Internet on EPA's Office of Wastewater Management website at http://www.epa.gov/owm/sw.

SUPPLEMENTARY INFORMATION: The following fact sheet provides background information and explanation for today's notice of final MSGP reissuance, including a summary Response to Comments regarding the comments which were received on the proposed MSGP. The actual language of the final MSGP appears after this fact sheet.

Fact Sheet

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I. Background

The Regional Administrators of EPA Regions 1, 2, 3, 4, 6, 8, 9 and 10 are today reissuing EPA's NPDES Storm Water Multi-Sector General Permit (MSGP). The MSGP currently authorizes storm water discharges associated with industrial activity for most areas of the United States where the NPDES permit program has not been delegated. The MSGP was originally issued on September 29, 1995 (60 FR 50804), and amended on February 9, 1996 (61 FR 5248), February 20, 1996 (61 FR 6412), September 24, 1996 (61 FR 50020), August 7, 1998 (63 FR 42534) and September 30, 1998 (63 FR 52430). The proposed reissuance of the MSGP appeared in the **Federal Register** on March 30, 2000 (65 FR 17010).

The 1995 MSGP was the culmination of the group permit application process described at 40 CFR 122.26(c)(2). A group permit application was one of three options for obtaining an NPDES industrial storm water permit which

were provided by the 1990 storm water permit application regulations (55 FR 48063). The 1990 regulations also provided that industrial facilities could apply for coverage under an existing general NPDES permit or apply for an individual permit. In 1992, EPA issued a baseline general permit (57 FR 41175 and 57 FR 44412) to cover industrial facilities which did not select the group application option or submit an application for an individual permit.

In response to the group application option, EPA received applications from approximately 1,200 groups representing nearly all of the categories of industrial facilities listed in the storm water regulations at 40 CFR 122.26(b)(14). To facilitate permit issuance for the group applications, EPA consolidated the groups into 29 industrial sectors, with subsectors also included in certain sectors as appropriate.

In developing the requirements for the 1995 MSGP, EPA utilized and built upon the storm water pollution control requirements of the 1992 baseline general permit. The baseline permit had required a storm water pollution prevention plan (SWPPP) with generic best management practice (BMP) requirements which applied to all facilities covered by the permit. In addition, certain categories of facilities were required to monitor storm water discharges based on EPA's best professional judgment concerning the risks posed by the facilities.

The group permit applications included information concerning the specific types of operations which are present at the different types of industrial facilities, potential sources of pollutants at the facilities, industry-specific BMPs which are available, and monitoring data from the different types of facilities. Using this information, EPA developed SWPPP requirements for the MSGP which consisted of the generic requirements of the baseline permit plus industry-specific requirements developed from the group application information. Also, the monitoring requirements of the 1995 MSGP were developed using the monitoring data submitted with the group applications rather than EPA's best professional judgment.

On September 30, 1998 (63 FR 52430), EPA terminated the baseline general permit and required facilities which were previously covered by the baseline permit to seek coverage under the MSGP (or submit an individual permit application). EPA believed that the MSGP, with its industry-specific requirements, would provide improved water quality benefits as compared to the baseline permit.

For today's reissuance of the MSGP, EPA has re-evaluated the industry-specific requirements of the MSGP. In a few instances, additional requirements have been included based on new information which has been obtained since the original MSGP issuance in 1995. These changes are discussed in more detail in Section VIII of this fact sheet, and in the Response to Comments. EPA also re-evaluated the monitoring requirements of the existing MSGP. However, after review of the comments received from the public, and the monitoring data received during the term of the 1995 MSGP, EPA has retained the same monitoring requirements for the reissued MSGP as were found in the 1995 MSGP.

A. Pollutants in Storm Water Discharges Associated With Industrial Activities in General

The volume and quality of storm water discharges associated with industrial activity will depend on a number of factors, including the industrial activities occurring at the facility, the nature of the precipitation, and the degree of surface imperviousness. A discussion of these factors was provided in the fact sheet for the original proposed MSGP (58 FR 61146 Nov. 19, 1993), and is not being repeated here.

B. Summary of Options for Controlling Pollutants

Pollutants in storm water discharges from industrial plants may be reduced using the following methods: Eliminating pollution sources, implementing BMPs to prevent pollution, using traditional storm water management practices, and providing end-of-pipe treatment. A general discussion of each of these was included in the original proposed MSGP (58 FR 61146, Nov. 19, 1993), and is not being repeated here.

C. The Federal/Municipal Partnership: The Role of Municipal Operators of Large and Medium Municipal Separate Storm Sewer Systems

A key issue in developing a workable regulatory program for controlling pollutants in storm water discharges associated with industrial activity is the proper use and coordination of limited regulatory resources. This is especially important when addressing the appropriate role of municipal operators of large and medium municipal separate storm sewer systems in the control of pollutants in storm water associated with industrial activity which discharge through municipal separate storm sewer systems. The original proposed MSGP discussed several key policy factors (see 58 FR 61146).

II. Organization of Final MSGP and Summary of Changes From the 1995 MSGP and the March 30, 2000 Proposed MSGP

The organization of today's final MSGP has been revised from the 1995 MSGP to reduce the overall size of the permit. In Part XI of the 1995 MSGP, many requirements such as SWPPP and monitoring requirements which were common to each sector were repeated in each sector, greatly adding to length of the permit. For today's reissuance, such requirements are found only once in expanded sections of the permit (Parts 4 and 5) which include requirements common to each sector. Requirements which are genuinely unique to a given sector or subsector are found in Part 6 in the permit. Similarly, Section VIII of the fact sheet for the 1995 MSGP repeated certain explanatory information in the discussions of sector-specific requirements, and also included considerable descriptive information about the various sectors. To reduce the length of today's notice, most of this information is not being repeated. Section VIII of today's fact sheet focuses on the changes (if any) in the various sectors. The reorganization and reduction of duplication have reduced the size of the permit by approximately 75%.

Also note that the section/paragraph identification scheme of today's final MSGP has been modified from the 1995 MSGP. The original scheme utilized a sometimes lengthy combination of numbers, letters and Roman numerals (in both upper and lower cases) which many permittees found confusing. Today's reissuance identifies sections/paragraphs, and hence permit conditions, using numbers only, except in Part 6 (which also incorporates the sector letters from the 1995 MSGP for consistency). Under the original permit, only the last digit or letter of the section/paragraph identifier appeared with its accompanying section title/paragraph, making it difficult to determine where you were in the permit. In today's reissuance, the entire string of identifying numbers is listed at each section/paragraph to facilitate recognizing where you are and in citing and navigating through the permit. For example, paragraph number 1.2.3.5 tells you immediately that you are in Part 1, section 2, paragraph 3, subparagraph 5; whereas under the 1995 MSGP you would only see an ''e'', thereby forcing you to hunt back through the permit to

determine that you were in Part I.B.3.e. The exception to the numbering rule is in Part 6, where the Sector letters from the 1995 MSGP have been retained to correspond to the sectors of industry covered by the permit and make it easy to tell that you are in a section of the permit which has conditions which only apply to a specific industrial sector. For example, paragraph 6.F.3.4 immediately tells you that you are in Part 6 and looking at conditions that only apply to sector ''F'' facilities. In some cases, requirements which previously appeared in a single paragraph are now found listed out as separate individual items. The final MSGP is also written in EPA's ''readable regulations'' style using terms like ''you'' and ''your'' in referring to permittees, etc.

Following below is a list of the major changes included in the proposed MSGP of March 30, 2000 (as compared to the 1995 MSGP) and retained in today's final MSGP. These changes are discussed in more detail later in this fact sheet.

1. Requirements for co-located activities clarified (Part 1.2.1.1).

2. Incidental cooling tower mist discharges included as an authorized non-storm water discharge, subject to certain requirements (Parts 1.2.2.2.13 and 4.4.2.3).

3. Eligibility provided for coverage of inactive mining activities occurring on Federal Lands where an operator has not been identified (Part 1.2.3).

4. Clarified language for situations where a discharge previously covered by an individual permit can be covered under today's MSGP (Part 1.2.3.3).

5. Clarified/added language for compliance with water quality standards and requirements for follow-up actions if standards are exceeded (Parts 1.2.3.5 and 3.3).

6. ESA and NHPA eligibility requirements modified (Parts 1.2.3.6 and 1.2.3.7).

7. Eligibility requirements for discharges to water quality impaired/limited waterbodies added/clarified (Part 1.2.3.8).

8. Clarified that discharges which do not comply with anti-degradation requirements are not authorized by the permit (Part 1.2.3.9).

9. Deadline of 30 days for submission of an NOT added (Part 1.4.2).

10. Opportunity for termination of permit coverage based on the ''no exposure exemption'' from the Phase II storm water regulations (64 FR 68722, 12/8/99) added (Parts 1.5 and 11.4).

11. Notice of Intent requirements and modified form (Part 2.2 and Addendum D).

12. Permit will accommodate electronic filing of NOIs, NOTs, or DMRs, should these options become available during the term of the permit (Parts 2.3 and 7.1)

13. Prohibition on discharges of solid materials and floating debris and requirement to minimize off-site tracking of materials and generation of dust added (Part 4.2.7.2.3).

14. Requirement to include a copy of the permit with the storm water pollution prevention plan (SWPPP) was added (Part 4.7).

15. Special conditions for EPCRA 313 facilities were modified (Part 4.12).

16. Monitoring requirements reorganized and additional clarification/revisions on monitoring periods, waivers, default minimum monitoring for limitations added by State 401 certification, and reporting requirements added (Part 5).

17. Manufacturing of fertilizer from leather scraps (SIC 2873) moved from Sector Z—Leather Tanning and Finishing to Sector C—Chemical and Allied Products (Table 1–1 and Part 6.C).

18. New effluent limitations guidelines for landfills in Sectors K and L included; the final guidelines were published in the **Federal Register** on January 19, 2000 (65 FR 3007) (Parts 6.K.5 and 6.L.6).

19. Sector AD (Non-Classified Facilities) language clarified to say that facilities cannot choose coverage under Sector AD, but can only be so assigned by permitting authority (Part 6.AD).

20. Additional BMP requirements in Sectors S, T, and Y added (Parts 6.S, 6.T, and 6.Y).

21. NOI to continue coverage under the permit when it expires (without a replacement permit in place) is not required and the reapplication process has been clarified (Part 9.2).

22. Process for EPA to remove facilities from permit coverage clarified (Part 9.12).

Following below is another list which summarizes the provisions of today's final MSGP which differ from the proposed MSGP of March 30, 2000.

1. Reference to ''drinking fountain water'' removed from Part 1.2.2.2.3.

2. Part 1.2.3.3.2.1 of the proposed MSGP was deleted. This requirement had not allowed MSGP coverage for facilities previously covered by another permit, unless the other permit only covered storm water and MSGP authorized non-storm water discharges.

3. Part 2.2.3.6 revised to indicate that the NOI must include the name of the MS4 receiving the discharges only if it is different from the permittee.

4. Part 4.9.3 revised to clarify the time frame for implementation of revised SWPPP.

5. Part 4.11 revised to require permittees to provide a copy of their SWPPP to the public when requested in writing to do so.

6. Sector E coverage was modified for consistency with the September 30, 1998 MSGP modification.

7. In Sector G, language was added stating that non-storm water discharges must be tested or evaluated; this change ensures consistency with the 1995 MSGP. Also in Sector G, the definition of ''reclamation'' was revised.

8. The title for Sector I was changed to include ''Refining.''

9. Sector T revised for consistency with 40 CFR 122.26(b)(14)(ix) concerning size of POTWs covered.

10. Section V.C. deleted the requirement to consider species proposed for listing as endangered or threatened.

III. Geographic Coverage of Final MSGP

The geographic coverage of today's final MSGP includes the following areas:

EPA Region 1—for the States of Maine, Massachusetts and New Hampshire; for Indian Country lands located in Massachusetts, Connecticut, Rhode Island and Maine; and for Federal facilities in the State of Vermont.

EPA Region 2—for the Commonwealth of Puerto Rico.

EPA Region 3—for the District of Columbia and Federal facilities in the State of Delaware.

EPA Region 4—for Indian Country lands located in the State of Florida.

EPA Region 6—for the State of New Mexico; for Indian Country lands located in the States of Louisiana, New Mexico, Texas and Oklahoma (except Navajo lands and Ute Mountain Reservation lands); for oil and gas facilities under SIC codes 1311, 1381, 1382, and 1389 in the State of Oklahoma not on Indian Country lands; and oil and gas facilities under SIC codes 1311, 1321, 1381, 1382, and 1389 in the State of Texas not on Indian Country lands.

EPA Region 8—for Federal facilities in the State of Colorado; for Indian Country lands in Colorado, North Dakota, South Dakota, Wyoming and Utah (except Goshute and Navajo Reservation lands); for Ute Mountain Reservation lands in Colorado and New Mexico; and for Pine Ridge Reservation lands in South Dakota and Nebraska.

EPA Region 9—for the State of Arizona; for the Territories of Johnston Atoll, American Samoa, Guam, the

Commonwealth of Northern Mariana Islands, Midway and Wake Islands; for Indian Country lands located in Arizona, California, and Nevada; and for the Goshute Reservation in Utah and Nevada, the Navajo Reservation in Utah, New Mexico, and Arizona, the Duck Valley Reservation in Nevada and Idaho, and the Fort McDermitt Reservation in Oregon and Nevada.

EPA Region 10—for the State of Idaho; for Indian Country lands located in Alaska, Oregon (except Fort McDermitt Reservation lands), Idaho (except Duck Valley Reservation lands) and Washington; and for Federal facilities in Washington.

For several reasons, the geographic area of coverage described above differs from the area of coverage of the 1995 MSGP. Indian country in Vermont and New Hampshire has been removed since there are no Federally recognized tribes in these States. Also, state NPDES permit programs have since been authorized in the States of South Dakota, Louisiana, Oklahoma (except for certain oil and gas facilities in Oklahoma) and Texas (again except for oil and gas facilities). In Oklahoma, EPA maintains NPDES permitting authority over oil and gas exploration and production related industries, and pipeline operations regulated by the Oklahoma Corporation Commission (See 61 FR 65049). Oklahoma received NPDES program authorization only for those discharges covered by the authority of the Oklahoma Department of Environmental Quality (ODEQ). In Texas, EPA maintains NPDES permitting authority over oil and gas discharges regulated by the Texas Railroad Commission (See 63 FR 51164). Texas received NPDES program authorization only for those discharges covered by the authority of the Texas Natural Resource Conservation Commission (TNRCC).

Specific additional conditions required in Region 6 as a result of a State or Tribal CWA Section 401 certification have been added for New Mexico, Oklahoma, and the Pueblos of Isleta, Pojoaque, San Juan, and Sandia. Numeric limitations for discharges in Texas contained in the previous permit pursuant to 31 TAC 319.22 and 319.23 have been continued in accordance with 40 CFR 122.44(d) and (l).

Federal facilities in Colorado, and Indian country located in Colorado (including the portion of the Ute Mountain Reservation located in New Mexico), North Dakota, South Dakota (including the portion of the Pine Ridge Reservation located in Nebraska), Utah (except for the Goshute and Navajo Reservation lands) and Wyoming were not included in the 1995 MSGP, but are included in today's MSGP. Indian country lands in Montana are not included at this time due to a recent court order. Prior to today, industrial facilities in these areas were largely covered under an extension of EPA's 1992 baseline general permit for industries (57 FR 41175).

Also, subsequent to the issuance of the MSGP in 1995, coverage was extended to the Island of Guam on September 24, 1996 (61 FR 50020) and the Commonwealth of the Northern Mariana Islands on September 30, 1998 (63 FR 52430). Certification was not received from Arizona in time for that state to be included in this permit.

The 1995 MSGP was issued in the State of Alaska, except Indian Country, on February 9, 1996 (61 FR 5247). Industrial facilities in Alaska outside of Indian Country will continue to be covered under the 1995 MSGP through February 9, 2001. EPA will reissue the permit for Alaska at a later date, and will include any state-specific modifications or additions or additions applicable to parts 1 through 12 of this permit as part of the State's Clean Water Act Section 401 or Coastal Zone Management Act certification processes.

Lastly, today's MSGP reissuance differs from the March 30, 2000 MSGP proposal in that the State of Florida (except for Indian country) is not included. This is a result of the recent NPDES program delegation to the State of Florida.

There are some areas where the NPDES permit program has not been delegated (such as Indian country in states not listed above) where neither the MSGP nor an alternate general permit is available for authorization of storm water discharges associated with industrial activity. However, only a very small number of permittees exist in such areas and individual permits are issued as needed.

IV. Categories of Facilities Covered by the Final MSGP

Today's final MSGP authorizes storm water discharges associated with industrial activity from the categories of facilities shown in Table 1 below:

TABLE 1.—SECTOR/SUBSECTORS COVERED BY THE FINAL MSGP

Subsector	SIC code	Activity represented
Sector A. Timber Products		
1*	2421	General Sawmills and Planning Mills.
2	2491	Wood Preserving.
3*	2411	Log Storage and Handling.
4*	2426	Hardwood Dimension and Flooring Mills.
	2429	Special Product Sawmills, Not Elsewhere Classified.
	2431–2439 (except 2434)	Millwork, Veneer, Plywood, and Structural Wood.
	2448, 2449	Wood Containers.
	2451, 2452	Wood Buildings and Mobile Homes.
	2493	Reconstituted Wood Products.
	2499	Wood Products, Not Elsewhere Classified.
Sector B. Paper and Allied Products Manufacturing		
1	2611	Pulp Mills.
2	2621	Paper Mills.
3*	2631	Paperboard Mills.
4	2652–2657	Paperboard Containers and Boxes.
5	2671–2679	Converted Paper and Paperboard Products, Except Containers and Boxes.
Sector C. Chemical and Allied Products Manufacturing		
1*	2812–2819	Industrial Inorganic Chemicals.

TABLE 1.—SECTOR/SUBSECTORS COVERED BY THE FINAL MSGP—Continued

Subsector	SIC code	Activity represented
2*	2821–2824	Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Man-made Fibers Except Glass.
3	2833–2836	Medicinal chemicals and botanical products; pharmaceutical preparations,; invitro and invivo diagnostic substances; biological products, except diagnostic substances.
4*	2841–2844	Soaps, Detergents, and Cleaning Preparations; Perfumes, Cosmetics, and Other Toilet Preparations.
5	2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products.
6	2861–2869	Industrial Organic Chemicals.
7*	2873–2879	Agricultural Chemicals, Including Facilities that Make Fertilizer Solely from Leather Scraps and Leather Dust.
8	2891–2899	Miscellaneous Chemical Products.
9	3952 (limited to list)	Inks and Paints, Including China Painting Enamels, India Ink, Drawing Ink, Platinum Paints for Burnt Wood or Leather Work, Paints for China Painting, Artist's Paints and Artist's Watercolors.
Sector D. Asphalt Paving and Roofing Materials Manufacturers and Lubricant Manufacturers.		
1*	2951, 2952	Asphalt Paving and Roofing Materials.
2	2992, 2999	Miscellaneous Products of Petroleum and Coal.
Sector E. Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing		
1	3211	Flat Glass.
	3221, 3229	Glass and Glassware, Pressed or Blown.
	3231	Glass Products Made of Purchased Glass.
	3281	Cut Stone and Stone Products.
	3291–3292	Abrasive and Asbestos Products.
	3296	Mineral Wool.
	3299	Nonmetallic Mineral Products, Not Elsewhere Classified.
2	3241	Hydraulic Cement.
3*	3251–3259	Structural Clay Products.
	3261–3269	Pottery and Related Products.
	3297	Non-Clay Refractories.
4*	3271–3275	Concrete, Gypsum and Plaster Products.
	3295	Minerals and Earth's, Ground, or Otherwise Treated.
Sector F. Primary Metals		
1*	3312–3317	Steel Works, Blast Furnaces, and Rolling and Finishing Mills.
2*	3321–3325	Iron and Steel Foundries.
3	3331–3339	Primary Smelting and Refining of Nonferrous Metals.
4	3341	Secondary Smelting and Refining of Nonferrous Metals.
5*	3351–3357	Rolling, Drawing, and Extruding of Nonferrous Metals.
6*	3363–3369	Nonferrous Foundries (Castings).
7	3398, 3399	Miscellaneous Primary Metal Products.
Sector G. Metal Mining (Ore Mining and Dressing)		
1	1011	Iron Ores.
2*	1021	Copper Ores.
3	1031	Lead and Zinc Ores.
4	1041, 1044	Gold and Silver Ores.
5	1061	Ferroalloy Ores, Except Vanadium.
6	1081	Metal Mining Services.
7	1094, 1099	Miscellaneous Metal Ores.
Sector H. Coal Mines and Coal Mining-Related Facilities		
NA*	1221–1241	Coal Mines and Coal Mining-Related Facilities Sector.
Sector I. Oil and Gas Extraction and Refining		
1*	1311	Crude Petroleum and Natural Gas.
2	1321	Natural Gas Liquids.
3*	1381–1389	Oil and Gas Field Services.
4	2911	Petroleum refining.
Sector J. Mineral Mining and Dressing		
1*	1411	Dimension Stone.
	1422–1429	Crushed and Broken Stone, Including Rip Rap.

TABLE 1.—SECTOR/SUBSECTORS COVERED BY THE FINAL MSGP—Continued

Subsector	SIC code	Activity represented
	1481	Nonmetallic Minerals, Except Fuels.
2*	1442, 1446	Sand and Gravel.
3	1455, 1459	Clay, Ceramic, and Refractory Materials.
4	1474–1479	Chemical and Fertilizer Mineral Mining.
	1499	Miscellaneous Nonmetallic Minerals, Except Fuels.
Sector K. Hazardous Waste Treatment Storage or Disposal Facilities		
NA*	HZ	Hazardous Waste Treatment, Storage or Disposal.
Sector L. Landfills and Land Application Sites		
NA*	LF	Landfills, Land Application Sites and Open Dumps.
Sector M. Automobile Salvage Yards		
NA*	5015	Automobile Salvage Yards.
Sector N. Scrap Recycling Facilities		
NA*	5093	Scrap Recycling Facilities.
Sector O. Steam Electric Generating Facilities		
NA*	SE	Steam Electric Generating Facilities.
Sector P. Land Transportation		
1	4011, 4013	Railroad Transportation.
2	4111–4173	Local and Highway Passenger Transportation.
3	4212–4231	Motor Freight Transportation and Warehousing.
4	4311	United States Postal Service.
5	5171	Petroleum Bulk Stations and Terminals.
Sector Q. Water Transportation		
NA*	4412–4499	Water Transportation.
Sector R. Ship and Boat Building or Repairing Yards		
NA	3731, 3732	Ship and Boat Building or Repairing Yards.
Sector S. Air Transportation Facilities		
NA*	4512–4581	Air Transportation Facilities.
Sector T. Treatment Works		
NA*	TW	Treatment Works.
Sector U. Food and Kindred Products		
1	2011–2015	Meat Products.
2	2021–2026	Dairy Products.
3	2032	Canned, Frozen and Preserved Fruits, Vegetables and Food Specialties.
4*	2041–2048	Grain Mill Products.
5	2051–2053	Bakery Products.
6	2061–2068	Sugar and Confectionery Products.
7*	2074–2079	Fats and Oils.
8	2082–2087	Beverages.
9	2091–2099	Miscellaneous Food Preparations and Kindred Products.
	2111–2141	Tobacco Products.
Sector V. Textile Mills, Apparel, and Other Fabric Product Manufacturing		
1	2211–2299	Textile Mill Products.
2	2311–2399	Apparel and Other Finished Products Made From Fabrics and Similar Materials.
	3131–3199 (except 3111)	Leather Products.

TABLE 1.—SECTOR/SUBSECTORS COVERED BY THE FINAL MSGP—Continued

Subsector	SIC code	Activity represented
	Sector W. Furniture and Fixtures	
NA	2511–2599	Furniture and Fixtures.
	2434	Wood Kitchen Cabinets.
	Sector X. Printing and Publishing	
NA	2711–2796	Printing, Publishing and Allied Industries.
	Sector Y. Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries	
1*	3011	Tires and Inner Tubes.
	3021	Rubber and Plastics Footwear.
	3052, 3053	Gaskets, Packing, and Sealing Devices and Rubber and Plastics Hose and Belting.
	3061, 3069	Fabricated Rubber Products, Not Elsewhere Classified.
2	3081–3089	Miscellaneous Plastics Products.
	3931	Musical Instruments.
	3942–3949	Dolls, Toys, Games and Sporting and Athletic Goods.
	3951–3955 (except 3952 as specified in Sector C).	Pens, Pencils, and Other Artists' Materials.
	3961, 3965	Costume Jewelry, Costume Novelties, Buttons, and Miscellaneous Notions, Except Precious Metal.
	3991–3999	Miscellaneous Manufacturing Industries.
	Sector Z. Leather Tanning and Finishing	
NA	3111	Leather Tanning and Finishing.
	Sector AA. Fabricated Metal Products	
1*	3411–3499	Fabricated Metal Products, Except Machinery and Transportation Equipment and Cutting, Engraving and Allied Services.
	3911–3915	Jewelry, Silverware, and Plated Ware.
2*	3479	Coating, Engraving, and Allied Services.
	Sector AB. Transportation Equipment, Industrial or Commercial Machinery	
NA	3511–3599 (except 3571–3579)	Industrial and Commercial Machinery (except Computer and Office Equipment—see Sector AC).
NA	3711–3799 (except 3731, 3732)	Transportation Equipment (except Ship and Boat Building and Repairing—see Sector R).
	Sector AC. Electronic, Electrical, Photographic and Optical Goods	
NA	3612–3699	Electronic, Electrical Equipment and Components, Except Computer Equipment.
	3812–3873	Measuring, Analyzing and Controlling Instrument; Photographic and Optical Goods, Watches and Clocks.
	3571–3579	Computer and Office Equipment.
	Sector AD. Reserved for Facilities Not Covered Under Other Sectors and Designated by the Director	

*Denotes subsector with analytical (chemical) monitoring requirements.
NA indicates those industry sectors in which subdivision into subsectors was determined to be not applicable.

The final MSGP modification of September 30, 1998 (63 FR 52430) expanded the coverage of the 1995 MSGP to include a small number of categories of facilities which had been covered by the 1992 baseline industrial general permit but excluded from the MSGP. In Table 1 above, these categories have been included in the appropriate sectors/subsectors of the MSGP as determined by the September 30, 1998 modification.

With the September 30, 1998 modification, EPA believes that the MSGP now covers all of the categories of industrial facilities which may discharge storm water associated with industrial activity as defined at 40 CFR 122.26(b)(14) (except construction activities disturbing five or more acres which are permitted separately). However, the September 30, 1998 modification also added another sector to the MSGP (Sector AD) to cover any inadvertent omissions. EPA has retained Sector AD in today's reissued MSGP.

Sector AD is further intended to provide a readily available means for covering many of the storm water facilities which are designated for permitting in accordance with NPDES regulations at 40 CFR 122.26(g)(1)(i). These regulations provide that permit applications may be required within 180 days of notice for any discharges which contribute to a violation of a water quality standard, or are determined to be significant sources of pollutants.

EPA also recognizes that a new North American Industry Classification System (NAICS) was recently adopted by the Office of Management and Budget (62 FR 17288, April 9, 1997). NAICS replaces the 1987 standard industrial classification (SIC) code

system for the collection of statistical economic data. However, the use of the new system for nonstatistical purposes is optional. EPA considered the use of NAICS for the today's MSGP reissuance, but elected to retain the 1987 SIC code system since the storm water regulations (40 CFR 122.26(b)(14)) reference the previous system and this system has generally proven to be adequate for identifying the facilities covered by storm water regulations. EPA will consider transitioning to the new NAICS system in future rule making.

V. Limitations on Coverage

A. Storm Water Discharges Subject to Effluent Guideline Limitations, Including New Source Performance Standards

The general prohibition on coverage of storm water subject to an effluent guideline limitation in the 1995 MSGP has been retained in today's MSGP reissuance. Only those storm water discharges subject to the following effluent guidelines are eligible for coverage (provided they meet all other eligibility requirements):

TABLE 2.—EFFLUENT GUIDELINES APPLICABLE TO DISCHARGES THAT MAY BE ELIGIBLE FOR PERMIT COVERAGE

Effluent guideline	New Source performance standards included in effluent guidelines?	Sectors with affected facilities
Runoff from material storage piles at cement manufacturing facilities [40 CFR Part 411 Subpart C (established February 23, 1977)].	Yes	E
Contaminated runoff from phosphate fertilizer manufacturing facilities [40 CFR Part 418 Subpart A (established April 8, 1974)].	Yes	C
Coal pile runoff at steam electric generating facilities [40 CFR Part 423 (established November 19, 1982)]	Yes	O
Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas [40 CFR Part 429, Subpart I (established January 26, 1981)].	Yes	A
Mine dewatering discharges at crushed stone mines [40 CFR part 436, Subpart B]	No	J
Mine dewatering discharges at construction sand and gravel mines [40 CFR part 436, Subpart C]	No	J
Mine dewatering discharges at industrial sand mines [40 CFR part 436, Subpart D]	No	J
Runoff from asphalt emulsion facilities [40 CFR Part 443 Subpart A (established July 24, 1975)].	Yes	D
Runoff from landfills, [40 CFR Part 445, Subpart A and B (established February 2, 2000.]	Yes	K & L

Section 306 of the Clean Water Act (CWA) requires EPA to develop performance standards for all new sources described in that section. These standards apply to all facilities which go into operation after the date the standards are promulgated. Section 511(c) of the CWA requires the Agency to comply with the National Environmental Policy Act (NEPA) prior to issuance of a permit under the authority of Section 402 of the CWA to facilities defined as a new source under Section 306.

The fact sheet for the 1995 MSGP described a process for ensuring compliance with NEPA for the MSGP (60 FR 50809). This process, which is repeated below, has been retained for the reissued MSGP. Additional guidance is found in a new Addendum C to the final MSGP.

Facilities which are subject to the performance standards for new sources as described in this section of the fact sheet must provide EPA with an Environmental Information Document pursuant to 40 CFR 6.101 prior to seeking coverage under this permit. This information shall be used by the Agency to evaluate the facility under the requirements of NEPA in an Environmental Review. The Agency will make a final decision regarding the direct or indirect impact of the discharge. The Agency will follow all administrative procedures required in this process. The permittee must obtain a copy of the Agency's final finding prior to the submission of a Notice of Intent to be covered by this general permit. In order to maintain eligibility, the permittee must implement any mitigation required of the facility as a result of the NEPA review process. Failure to implement mitigation measures upon which the Agency's NEPA finding is based is grounds for termination of permit coverage. In this way, EPA has established a procedure which allows for the appropriate review procedures to be completed by this Agency prior to the issuance of a permit under Section 402 of the CWA to an operator of a facility subject to the new source performance standards of Section 306 of the CWA. EPA believes that it has fulfilled its requirements under NEPA for this Federal action under Section 402 of the CWA.

B. Historic Preservation

The National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of Federal undertakings, including undertakings on historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places. The term ''Federal undertaking'' is defined in the existing NHPA regulations to include any project, activity, or program under the direct or indirect jurisdiction of a Federal agency that can result in changes in the character or use of historic properties, if any such historic properties are located in the area of potential effects for that project, activity, or program. See 36 CFR 802(o). Historic properties are defined in the NHPA regulations to include prehistoric or historic districts, sites, buildings, structures, or objects that are included in, or are eligible for inclusion in, the National Register of Historic Places. See 36 CFR 802(e).

Federal undertakings include EPA's issuance of general NPDES permits. In light of NHPA requirements, EPA included a provision in the eligibility requirements of the 1995 MSGP for the consideration of the effects to historic properties. That provision provided that an applicant is eligible for permit coverage only if: (1) the applicant's storm water discharges and BMPs to control storm water runoff do not affect a historic property, or (2) the applicant has obtained, and is in compliance with, a written agreement between the applicant and the State Historic Preservation Officer (SHPO) that outlines all measures to be taken by the applicant to mitigate or prevent adverse effects to the historic property. See Part I.B.6, 60 FR 51112 (September 29, 1995). When applying for permit coverage, applicants were required to certify in

the NOI that they are in compliance with the Part I.B.6 eligibility requirements. Provided there are no other factors limiting permit eligibility, MSGP coverage was then granted 48 hours after the postmark on the envelope used to mail the NOI.

The September 30, 1998 modification included two revisions of the original MSGP with respect to historic properties. First, EPA amended the original Part I.B.6.(ii) to include a reference to Tribal Historic Preservation Officers (THPOs) because MSGP coverage extends to Tribal lands and in recognition of the central role Tribal governments play in the protection of historic resources. Second, EPA included NHPA guidance and a list of SHPO and THPO addresses in a new Addendum I to the MSGP to assist applicants with the certification process for permit eligibility under this condition.

For today's MSGP reissuance, EPA has modified slightly the requirements of the first option for obtaining permit coverage to enhance the protection of historic properties. Permit coverage is only available if storm water and allowable non-storm water discharges and ''discharge-related activities'' do not affect historic properties. ''Discharge-related activities'' are defined to include activities which cause, contribute to, or result in storm water and allowable non-storm water point source discharges, and measures such as the siting, construction and operation of BMPs to control, reduce or prevent pollution in the discharges. Discharge-related activities are included to ensure compliance with NHPA requirements to consider the effects of activities which are related to the activity which is permitted, *i.e.*, the storm water and non-storm water discharges. Because this change was minor, EPA is relying on its 1995 and 1998 consultations with the Advisory Council on Historic Preservation as its basis for reissuance of this permit.

Also, as discussed in Section VI.A.1 below, EPA intends to modify, contingent upon Office of Management and Budget review and approval, the Notice of Intent form to require that operators identify which of the above two options they are using to ensure eligibility for permit coverage under the MSGP. The NHPA guidance has also been modified to reflect the above pending changes, and appears in Addendum B in today's notice rather than Addendum I. Until the revised form is approved and issued, the current form (with minor clarifications) remains in effect.

Facilities seeking coverage under today's MSGP which cannot certify compliance with the NHPA requirements must submit individual permit applications to the permitting authority. For facilities already covered by the existing MSGP, the deadline for the individual applications is the same as that for NOIs requesting coverage under the reissued MSGP (December 29, 2000).

C. Endangered Species

The Endangered Species Act (ESA) of 1973 requires Federal Agencies such as EPA to ensure, in consultation with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (also known collectively as the ''Services''), that any actions authorized, funded, or carried out by the Agency (*e.g.*, EPA issued NPDES permits authorizing discharges to waters of the United States) are not likely to jeopardize the continued existence of any Federally-listed endangered or threatened species or adversely modify or destroy critical habitat of such species (see 16 U.S.C. 1536(a)(2), 50 CFR 402 and 40 CFR 122.49(c)).

For the 1995 MSGP, EPA conducted formal consultation with the Services which resulted in a joint Service biological opinion issued by the FWS on March 31, 1995, and by the NMFS on April 5, 1995, which concluded that the issuance and operation of the MSGP was not likely to jeopardize the existence of any listed endangered or threatened species, or result in the adverse modification or destruction of any critical habitat.

The 1995 MSGP contained a number of conditions to protect listed species and critical habitat. Permit coverage was provided only where:

- The storm water discharge(s), and the construction of BMPs to control storm water runoff, were not likely to jeopardize species identified in Addendum H of the permit; or
- The applicant's activity had received previous authorization under the Endangered Species Act and established an environmental baseline that was unchanged; or,
- The applicant was implementing appropriate measures as required by the Director to address jeopardy.

For today's MSGP reissuance, EPA has modified the ESA-related requirements for obtaining permit coverage to enhance the protection of listed species. First, permit coverage is only available if storm water and allowable non-storm water discharges and ''discharge-related activities'' result in no jeopardy to listed species. ''Discharge-related activities'' are defined to include activities which cause, contribute to or result in storm water and allowable non-storm water point source discharges, and measures such as the siting, construction and operation of BMPs to control, reduce or prevent pollution in the discharges. Discharge-related activities are included for compliance with ESA requirements to consider the effects of activities which are related to the activity which is permitted, *i.e.*, the storm water and non-storm water discharges.

In addition, operators seeking coverage under the reissued MSGP must certify that they are eligible for coverage under one of the following five options which are provided in Parts 1.2.3.6.3.1 through 5 of the permit:

1. No endangered or threatened species or critical habitat are in proximity to the facility or the point where authorized discharges reach the receiving water; or

2. In the course of a separate federal action involving the facility (*e.g.*, EPA processing request for an individual NPDES permit, issuance of a CWA Section 404 wetlands dredge and fill permit, etc.), formal or informal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service under Section 7 of the ESA has been concluded and that consultation:

(a) addressed the effects of the storm water and allowable non-storm water discharges and discharge-related activities on listed species and critical habitat and

(b) the consultation resulted in either a no jeopardy opinion or a written concurrence by the Service(s) on a finding that the storm water and allowable non-storm water discharges and discharge-related activities are not likely to jeopardize listed species or critical habitat; or

3. The activities are authorized under Section 10 of the ESA and that authorization addresses the effects of the storm water and allowable non-storm water discharges and discharge-related activities on listed species and critical habitat; or

4. Using due diligence, the operator has evaluated the effects of the storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed endangered or threatened species and critical habitat and does not have reason to believe listed species or critical habitat would be jeopardized; or

5. The storm water and allowable non-storm water discharges and discharge-related activities were already addressed in another operator's

certification of eligibility under Part 1.2.3.6.3.1 through 1.2.3.6.3.4 which included the facility's activities. By certifying eligibility under this Part, a permittee agrees to comply with any measures or controls upon which the other operator's certification was based.

The first four options listed above are similar to the eligibility provisions of the 1995 MSGP. Option 5 was added to account for situations such as an airport facility where one operator (*e.g.*, the airport authority) may have covered the entire airport through its certification. Option 5 allows other operators to take advantage of such a certification without repeating the reviews conducted by the first operator. Option 1 applies to operators who are not jeopardizing endangered species because listed species simply are not in proximity to their facility. Option 4 applies to operators who have endangered species nearby and must look more closely at potential jeopardy and may need to adopt measures to reduce the risk of jeopardy to listed species or critical habitat. The provision of the two options to determine that a facility is unlikely to jeopardize listed species, coupled with the pending new NOI requirement to indicate whether or not the Service was contacted in making the determination, will also allow for better oversight of the permit. Under the 1995 permit, there was no way to tell from the NOI information whether the decision on eligibility was due to no species in the county, a discussion with the Service, or a simple unilateral decision by the operator.

Addendum H of the 1995 MSGP provided instructions to assist permittees in determining whether they met the permit's ESA-related eligibility requirements. For today's reissued MSGP, this guidance has been updated to reflect the above requirements and appears as Addendum A. As noted in Section VI.A.1 below, EPA intends to modify the Notice of Intent form to conform with new ESA requirements discussed above.

Addendum H of the 1995 MSGP contained a list of proposed and listed endangered and threatened species that could be jeopardized by the discharges and measures to control pollutants in the discharges. EPA reinitiated and completed formal consultation with the Services for the September 30, 1998 modification of the MSGP. As a result of this consultation and in response to public comments on the modification, EPA updated the species list in Addendum H to include species that were listed or proposed for listing since the Addendum H list was originally compiled on March 31, 1995. EPA also decided to expand the list to include all of the terrestrial (*i.e.*, non-aquatic) listed and proposed species in recognition that those species may be impacted by permitted activities such as the construction and operation of the BMPs. The September 30, 1998 MSGP modification included the species list updated as of July 8, 1998 (63 FR 52494). The species list is also being updated on a regular basis and an electronic copy of the list is available at the Office of Wastewater Management website at ''http://www.epa.gov/owm/esalst2.htm''. The information may also be obtained by contacting the Services. The permittee is responsible for obtaining the updated information.

Based on comments received on the proposed MSGP on March 30, 2000 (65 FR 17010), the final permit requires facility operators to consider only listed endangered or threatened species, and not species proposed to be listed. Further explanation for the change can be found in Section IX of this notice.

On August 10, 2000, EPA initiated informal consultation with FWS and NMFS on EPA's finding of no likelihood of adverse effect on threatened and endangered species and critical habitat resulting from issuance of MSGP–2000. On September 22, 2000 FWS concurred with EPA's finding.

To be eligible for coverage under today's reissued MSGP, facilities must review the updated list of species and their locations in conjunction with the Addendum A instructions for completing the application requirements under this permit. If an applicant determines that none of the species identified in the updated species list is found in the county in which the facility is located, then there is a likelihood of no jeopardy and they are eligible for permit coverage. Applicants must then certify that their storm water and allowable non-storm water discharges, and their discharge-related activities, are not likely to jeopardize species and will be granted MSGP permit coverage 48 hours after the date of the postmark on the envelope used to mail the NOI form, provided there are no other factors limiting permit eligibility.

If listed species are located in the same county as the facility seeking MSGP coverage, then the applicant must determine whether the species are in proximity to the storm water or allowable non-storm water discharges or discharge-related activities at the facility. A species is in proximity to a storm water or allowable non-storm water discharge when the species is located in the path or down gradient area through which or over which the point source discharge flows from industrial activities to the point of discharge into the receiving water, and once discharged into the receiving water, in the immediate vicinity of, or nearby, the discharge point. A species is also in proximity if it is located in the area of a site where discharge-related activities occur. If an applicant determines there are no species in proximity to the storm water or allowable non-storm water discharges, or discharge-related activities, then there is no likelihood of jeopardizing the species and the applicant is eligible for permit coverage.

If species are in proximity to the storm water or allowable non-storm water discharges or discharge-related activities, as long as they have been considered as part of a previous ESA authorization of the applicant's activity, and the environmental baseline established in that authorization is unchanged, the applicant may be covered under the permit. The environmental baseline generally includes the past and present impacts of all Federal, state and private actions that were occurring at the time the initial NPDES authorization and current ESA section 7 action by EPA or any other federal agency was taken. Therefore, if a permit applicant has received previous authorization and nothing has changed or been added to the environmental baseline established in the previous authorization, then coverage under this permit will be provided.

In the absence of such previous authorization, if species identified in the updated species list are in proximity to the discharges or discharge-related activities, then the applicant must determine whether there is any likely jeopardy to the species. This is done by the applicant conducting a further examination or investigation, or an alternative procedure, as described in the instructions in Addendum A of the permit. If the applicant determines that there is no likely jeopardy to the species, then the applicant is eligible for permit coverage. If the applicant determines that there likely is, or will likely be any jeopardy, then the applicant is not eligible for MSGP coverage unless or until he or she can meet one of the other eligibility conditions.

All dischargers applying for coverage under the MSGP must provide in the application information on the Notice of Intent form: (1) A determination as to whether there are any listed species in proximity to the storm water or allowable non-storm water discharges or discharge related activity, and (2) (when

EPA receives approval from the Office of Management and Budget and issues the revised form) an indication of which option under Part 1.2.3.6.3 of the MSGP they claim eligibility for permit coverage, and (3) a certification that their storm water and allowable non-storm water discharges and discharge-related activities are not likely to jeopardize listed species, or are otherwise eligible for coverage due to a previous authorization under the ESA. Coverage is contingent upon the applicant's providing truthful information concerning certification and abiding by any conditions imposed by the permit.

Dischargers who cannot determine if they meet one of the endangered species eligibility criteria cannot sign the certification to gain coverage under the MSGP and must apply to EPA for an individual NPDES storm water permit. For facilities already covered by the 1995 MSGP, the deadline for the individual applications is the same as that for NOIs requesting coverage under the reissued MSGP (December 29, 2000). As appropriate, EPA will conduct ESA section 7 consultation when issuing such individual permits.

Regardless of the above conditions, EPA may require that a permittee apply for an individual NPDES permit on the basis of possible jeopardy to species or critical habitats. Where there are concerns that coverage for a particular discharger is not sufficiently protective of listed species, the Services (as well as any other interested parties) may petition EPA to require that the discharger obtain an individual NPDES permit and conduct an individual section 7 consultation as appropriate.

In addition, the Assistant Administrator for Fisheries for the National Oceanic and Atmospheric Administration, or his/her authorized representative, or the U.S. Fish and Wildlife Service (as well as any other interested parties) may petition EPA to require that a permittee obtain an individual NPDES permit. The permittee is also required to make the SWPPP, annual site compliance inspection report, or other information available upon request to the Assistant Administrator for Fisheries for the National Oceanic and Atmospheric Administration, or his/her authorized representative, or the U.S. Fish and Wildlife Service Regional Director, or his/her authorized representative.

These mechanisms allow for the broadest and most efficient coverage for the permittee while still providing for the most efficient protection of endangered species. They significantly reduce the number of dischargers that must be considered individually and therefore allow the Agency and the Services to focus their resources on those discharges that are indeed likely to jeopardize listed species. Straightforward mechanisms such as these allow applicants more immediate access to permit coverage, and eliminates ''permit limbo'' for the greatest number of permitted discharges. At the same time it is more protective of endangered species because it allows both agencies to focus on the real problems, and thus, provide endangered species protection in a more expeditious manner.

D. New Storm Water Discharges to Water Quality-Impaired or Water Quality-Limited Receiving Waters

Today's final MSGP includes a new provision (Part 1.2.3.8) which establishes eligibility conditions with regard to discharges to water quality-limited or water quality-impaired waters. For the purposes of this permit, ''water quality-impaired'' refers to a stream, lake, estuary, etc. that is not currently meeting its assigned water quality standards. These waters are also referred to as ''303(d) waters'' due to the requirement under that section of the CWA for States to periodically list all state waters that are not meeting their water quality standards. ''Water quality-limited waters'' refers to waterbodies for which a State had to develop individual Total Maximum Daily Loads (TMDLs), a tool which helps waterbodies meet their water quality standards. A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. Water quality standards are set by States, Territories, and Tribes. They identify the uses for each waterbody, for example, drinking water supply, contact recreation (swimming), and aquatic life support (fishing), and the scientific criteria to support that use. The CWA, section 303, establishes the water quality standards and TMDL programs.

Prior to submitting a Notice of Intent, any new discharger (see 40 CFR 122.2) to a 303(d) waterbody must be able to demonstrate compliance with 40 CFR 122.4(i). In essence, you are a new discharger if your facility started discharging after August 13, 1979 and your storm water was not previously permitted. Any discharger to a waterbody for which there is an approved TMDL must confirm that the TMDL allocated a portion of the load for storm water point source discharges. These provisions apply only to discharges containing the pollutant(s) for which the waterbody is impaired or the TMDL developed.

Part 1.2.3.8.1 (which applies to new storm water discharges and not to existing discharges) is designed to better ensure compliance with NPDES regulations at 40 CFR 122.4(i), which include certain special requirements for new discharges into impaired waterbodies. Lists of impaired waterbodies (sometimes referred to as 303(d) waterbodies) may be obtained from appropriate State environmental offices or their internet sites. NPDES regulations at 40 CFR 122.4(i) prohibit discharges unless it can be shown that:

1. There are sufficient remaining pollutant load allocations to allow for the discharge; and

2. The existing dischargers into that segment are subject to compliance schedules designed to bring the segments into compliance with applicable water quality standards.

Part 1.2.3.8.2 (which applies to both new and existing storm water discharges) is designed to better ensure compliance with NPDES regulations at 40 CFR 122.4(d), which requires compliance with State water quality standards. The eligibility condition prohibits coverage of new or existing discharges of a particular pollutant where there is a TMDL, unless the discharge is consistent with the TMDL. Lists of waterbodies with TMDLs may be obtained from appropriate State environmental offices or their internet sites and from EPA's TMDL internet site at *http://www.epa.gov/owow/tmdl/index.html*.

E. Storm Water Discharges Subject to Anti-Degradation Provisions of Water Quality Standards

Part 1.2.3.9 of today's final MSGP includes a new provision which clarifies that discharges which do not comply with applicable anti-degradation provisions of State water quality standards are not eligible for coverage under the MSGP. This eligibility condition is designed to better ensure compliance with NPDES regulations at 40 CFR 122.4(d), which requires compliance with State water quality standards. Anti-degradation provisions may be obtained from the appropriate State environmental office or their internet sites.

F. Storm Water Discharges Previously Covered by an Individual Permit

The 1995 MSGP contained general prohibitions on coverage where a discharge was covered by another NPDES permit (Part I.B.3.d) and where a permit had been terminated other than at the request of the permittee (Part

I.B.3.e.). It was therefore possible to obtain coverage by requesting termination of an individual permit and then submitting an NOI for coverage under the MSGP. This could be desirable from both the discharger's and EPA's perspective for a variety of reasons, for example, where a wastewater permit included storm water outfalls, but the wastewater outfalls had been eliminated. Being able to use the general permit would reduce the application cost to the permittee and the administrative burden of permit issuance to the Agency. Today's permit clarifies the conditions under which transfer from an individual permit to this general permit would be acceptable (Part 1.2.3.3.2).

In order to avoid conflict with the anti-backsliding provisions of the CWA, transfer from an individual permit to the MSGP will only be allowed where both of the following conditions are met:

- The individual permit did not contain numeric water quality-based effluent limitations developed for the storm water component of the discharge; and
- The permittee includes any specific BMPs for storm water required under the individual permit in their storm water pollution prevention plan.

Implementation of a comprehensive Storm Water Pollution Prevention Plan for the entire facility (as opposed to selected outfalls in an individual permit) and compliance with all other conditions of the MSGP is deemed to be at least as stringent a technology-based permit limit as the conditions of the individual permit. This assumption is only made where the previous permit did not contain any specific water quality-based effluent limitations on storm water discharges (e.g., storm water contained high levels of zinc and the individual permit contained a zinc limit developed to ensure compliance with the State water quality criteria).

G. Requiring Coverage Under an Individual Permit or an Alternate General Permit

Part 9.12 of today's final MSGP provides that EPA may require an individual permit or coverage under a separate general permit instead of today's MSGP. This is in accord with NPDES regulations at 40 CFR 122.28(b)(3). These regulations also provide that any interested party may petition EPA to take such an action. The issuance of the individual permit or alternate general permit would be in accordance with 40 CFR Part 124 and would provide for public comment and appeal of any final permit decision. The circumstances in which such an action would be taken are set forth at 40 CFR 122.28(b)(3).

VI. Summary of Common Permit Conditions

The following section describes the permit conditions common to discharges from all the industrial activities covered by today's final MSGP. These conditions are largely the same as the conditions of the 1995 MSGP.

A. Notification Requirements

General permits for storm water discharges associated with industrial activity must require the submission of a Notice of Intent (NOI) prior to the authorization of such discharges (see 40 CFR 122.28(b)(2)(i), April 2, 1992 (57 FR 11394)). Consistent with these regulatory requirements, today's final MSGP establishes NOI requirements. These requirements apply to facilities currently covered by the 1995 MSGP, as well as new facilities seeking coverage. EPA made minor modifications to the NOI form to allow the discharger, the Agency and the public to more easily determine sector-specific conditions that will apply to the facility. Further modifications proposed on March 30, 2000 (65 FR 17010) require review and approval by the Office of Management and Budget under the Paperwork Reduction Act. EPA will have all appropriate approvals in place prior to requiring the use of the expanded NOI form. In the interim the NOI form with the minor modifications, contained in this notice, is in effect.

The information requirements of the revised NOI form are described below:

1. Content of NOI

a. An indication of which permit the operator is filing the NOI for (e.g., a facility in New Hampshire would be filing for coverage under permit NHR05*###, a facility located on Navajo Reservation lands in New Mexico under the AZR05*##I permit, a private contractor operating a federal facility in Colorado that is not located on Indian Country lands under the COR05*##F permit, etc.);

b. The name, address, and telephone number of the operator filing the NOI for permit coverage;

c. An indication of whether the owner of the site is a Federal, State, Tribal, private, or other public entity;

d. The name (or other identifier), address, county, and latitude/longitude of the facility for which the NOI is submitted (latitude/longitude will be accepted in either degree-minute-second or decimal format);

e. An indication of whether the facility is located on Indian Country lands;

f. An indication of whether the facility is a federal facility operated by the federal government;

g. The name of the receiving water(s);

h. The name of the municipal operator if the discharge is through a municipal separate storm sewer system prior to discharge to a water of the U.S.;

i. Up to four 4-digit Standard Industrial Classification (SIC) codes that best represent the principal products produced or services rendered, including hazardous waste treatment, storage, or disposal activities, land disposal facilities that receive or have received any industrial waste, steam electric power generating facilities, or treatment works treating domestic sewage;

j. Identification of applicable sector(s) in this permit, as designated in Table 1, for facility discharges associated with industrial activity the operator wishes to have covered under this permit;

k. Certification that a storm water pollution prevention plan (SWPPP) meeting the requirements of Part 4 has been developed (with a copy of the permit language in the SWPPP);

l. Based on the instructions in Addendum A, whether any listed threatened or endangered species, or designated critical habitat, are in proximity to the storm water discharges or storm water discharge-related activities to be covered by this permit;

m. Whether any historic property listed or eligible for listing on the National Register of Historic Places is located on the facility or in proximity to the discharge;

n. A signed and dated certification, signed by a authorized representative of the facility as detailed in Part 9.7 and maintained with the SWPPP that certifies the following:

I certify under penalty of law that I have read and understand the Part 1.2 eligibility requirements for coverage under the multi-sector storm water general permit including those requirements relating to the protection of endangered or threatened species or critical habitat. To the best of my knowledge, the storm water and allowable non-storm discharges authorized by this permit (and discharged related activities), are not likely and will not likely, jeopardize endangered or threatened species or critical habitat, or are otherwise eligible for coverage under Part 1.2.3.6 of the permit. To the best of my knowledge, I further certify that such discharges and discharge related activities do not have an effect on properties listed or eligible for listing on the National Register of Historic Places under the National Historic Preservation Act, or are otherwise eligible for coverage under Part 1.2.3.7 of the permit. I

understand that continued coverage under the multi-sector storm water general permit is contingent upon maintaining eligibility as provided for in Part 1.2.

Two additional components of the form pending approval by the Office of Management and Budget are:

a. under which Part(s) of Part 1.2.3.6 (Endangered Species) the applicant is certifying eligibility and whether the FWS or NMFS was involved in making the determination of eligibility;

b. under which Part(s) of Part 1.2.3.7 (Historic Properties) the applicant is certifying eligibility and whether the SHPO or THPO was involved in the determination of eligibility.

The NOI must be signed in accordance with the signatory requirements of 40 CFR 122.22. A complete description of these signatory requirements is provided in the instructions accompanying the NOI. Completed NOI forms must be submitted to the Storm Water Notice of Intent (4203), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

In the future (but not at the present time), EPA may also allow alternate means of NOI submission (such as electronic submission). An alternate means of NOI submission may be used by operators provided EPA has informed the operator of the acceptability of the alternative.

2. Deadlines

For facilities currently covered by the 1995 MSGP, the deadline for submission of an NOI requesting coverage under the reissued MSGP is January 29, 2001 (90 days after expiration of the 1995 MSGP). For these facilities, the requirements of the 1995 MSGP are incorporated into today's MSGP and continue to apply during the interim period subsequent to the expiration of the 1995 MSGP, but prior to submission of the NOI requesting coverage under the reissued MSGP. In response to a question from some permittees, EPA wishes to clarify that there is no need to submit an NOT to rescind coverage under the 1995 MSGP.

Facilities currently covered by the 1995 MSGP who cannot immediately determine if they are eligible for coverage under today's reissued MSGP may nevertheless be covered for up to 270 days provided an application for an alternative permit is submitted within 90 days. This interim coverage allows permit coverage while the permittee assesses his eligibility for the reissued MSGP and, if necessary, still meet the 180 day lead time required for applications for individual permits.

For facilities commencing operations after reissuance of the MSGP, the NOI must be submitted at least two days prior to the commencement of the new industrial activity. New operators of existing facilities must also submit the NOI at least two days prior to assuming operational control at existing facilities.

Dischargers who submit a complete NOI in accordance with the MSGP requirements are authorized to discharge storm water associated with industrial activity two days after the date the NOI is postmarked, unless otherwise notified by EPA. EPA may deny coverage under the MSGP and require submission of an individual NPDES permit application based on a review of the completeness and/or content of the NOI or other information (e.g., Endangered Species Act compliance, National Historic Preservation Act Compliance, water quality information, compliance history, history of spills, etc.). Where EPA requires a discharger authorized under the MSGP to apply for an individual NPDES permit (or an alternative general permit), EPA will notify the discharger in writing that a permit application (or different NOI) is required by an established deadline. Coverage under the MSGP will automatically terminate if the discharger fails to submit the required permit application in a timely manner. Where the discharger does submit a requested permit application, coverage under the MSGP will automatically terminate on the effective date of the issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee.

A discharger is not precluded from submitting an NOI at a later date than described above. However, in such instances, EPA may bring appropriate enforcement actions.

3. Municipal Separate Storm Sewer System Operator Notification

Operators of storm water discharges associated with industrial activity that discharge through a large or medium municipal separate storm sewer system (MS4) or a municipal system designated by the Director,[1] must (upon request of the MS4 operator) submit a copy of the NOI to the municipal operator of the system receiving the discharge. This requirement of today's MSGP differs from the 1995 MSGP which had required that a copy of the NOI be sent to the MS4 operator. Today's MSGP has been modified in this regard to reduce paperwork requirements, and in consideration of the fact that most large and medium MS4 operators already have good information concerning the industrial facilities discharging into their MS4s.

EPA wishes to ensure a coordinated program between EPA and operators of MS4s for controlling pollutants in storm water discharges associated with industrial activity which enter an MS4. Such a coordinated program was intended by EPA's original storm water permit application regulations of November 16, 1990 (55 FR 48063). Additional discussion of this matter can be found in the original proposed MSGP (58 FR 61146).

4. Notice of Termination

Where a discharger is able to eliminate the storm water discharges associated with industrial activity from a facility, the discharger may submit a Notice of Termination (NOT) form (or photocopy thereof) provided by the Director. Today's final MSGP also differs from the 1995 MSGP by requiring that an NOT be submitted within 30 days after one or both of the following two conditions having been met:

a. a new owner/operator has assumed responsibility for the facility; or

b. the permittee has ceased operations at the facility and there no longer are discharges of storm water associated with industrial activity from the facility;

A copy of the NOT and instructions for completing the NOT are included in Addendum E. The NOT form requires the following information:

a. Name, mailing address, and location of the facility for which the notification is submitted. Where a street address for the site is not available, the location of the approximate center of the site must be described in terms of the latitude and longitude to the nearest 15 seconds, or the section, township and range to the nearest quarter;

b. The name, address and telephone number of the operator addressed by the Notice of Termination;

c. The NPDES permit number for the storm water discharge associated with industrial activity identified by the NOT;

d. An indication of whether the storm water discharges associated with industrial activity have been eliminated or the operator of the discharges has changed; and

e. The following certification:

I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are

[1] The terms large and medium municipal separate storm sewer systems (systems serving a population of 100,000 or more) are defined at 40 CFR 122.26(b)(4) and (7). Some of the cities and counties in which these systems are found are listed in Appendices F, G, H, and I to 40 CFR Part 122. Other municipal systems have been designated by EPA on a case-by-case basis or have brought into the program based upon the 1990 Census.

authorized by an NPDES general permit have been eliminated or that I am no longer the operator of the industrial activity. I understand that by submitting this Notice of Termination I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by an NPDES permit. I also understand that the submission of this notice of termination does not release an operator from liability for any violations of this permit or the Clean Water Act.

NOTs are to be sent to the Storm Water Notice of Termination (4203), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

The NOT must be signed in accordance with the signatory requirements of 40 CFR 122.22. A complete description of these signatory requirements is provided in the instructions accompanying the NOT.

5. Conditional Exclusion for No Exposure

Today's final MSGP includes a special provision (Part 1.5 of the permit) which provides that a facility may discontinue permit coverage if the facility determines that it is eligible for the ''no exposure'' permit exemption which was created by EPA as part of the promulgation of the Phase II storm water regulations (64 FR 68722). A notice of termination is not required to discontinue permit coverage under these circumstances. However, in accordance with the Phase II regulations, a no exposure certification must be filed with the permitting authority.

It should also be noted that facilities operating under the existing MSGP are eligible, as of the effective date of the Phase II regulations, to submit no exposure certifications immediately if they meet the criteria for no exposure. No exposure certification renewals must be submitted five years from the time they are first submitted (assuming the facility still qualifies for the exemption). If conditions change at a facility such that renewed MSGP coverage is needed, the facility may submit an NOI requesting renewed coverage.

In response to comments on this matter, EPA has included a copy of the ''No Exposure'' form and instructions as Addendum F to today's permit.

EPA has also prepared a new guidance document entitled ''Guidance Manual for Conditional Exclusion from Storm Water Permitting Based on ''No Exposure'' of Industrial Activities to Storm Water'' to assist permittees in determining eligibility for the exemption. This guidance document is available on EPA's storm water website. In addition, EPA recently conducted a mass mailing to permittees (as well as other stakeholder groups) alerting them to the no exposure exemption.

B. Special Conditions

The conditions of today's final MSGP have been designed to comply with the technology-based standards of the CWA (BAT/BCT). Based on a consideration of the appropriate factors for BAT and BCT requirements, and a consideration of the factors and options for controlling pollutants in storm water discharges associated with industrial activity, the final MSGP lists a set of tailored requirements for developing and implementing storm water pollution prevention plans (SWPPPs) and, for selected discharges, numeric effluent limitations.[2] This is the same approach as in the 1995 MSGP.

Section VIII of the fact sheet for the 1995 MSGP summarized the industry-specific BMP options for controlling pollutants in storm water discharges associated with industrial activity for the various industrial sectors covered by the MSGP. Section VIII of today's fact sheet does not repeat the information from the 1995 fact sheet; however, updates are provided as appropriate.

Section VI.B.4 of today's fact sheet discusses the storm water discharges which are subject to numeric effluent limitations. For other discharges covered by the final MSGP, the permit conditions reflect EPA's decision to identify a number of BMP and traditional storm water management practices which prevent pollution in storm water discharges as the BAT/BCT level of control for the majority of storm water discharges covered by this permit. The permit conditions applicable to these discharges are not numeric effluent limitations, but rather are flexible requirements for developing and implementing site specific plans to minimize and control pollutants in storm water discharges associated with industrial activity.

EPA is authorized under 40 CFR 122.44(k)(2) to impose BMPs in lieu of numeric effluent limitations in NPDES permits when the Agency finds numeric effluent limitations to be infeasible. EPA may also impose BMPs which are ''reasonably necessary * * * to carry out the purposes of the Act'' under 40 CFR 122.44(k)(3). Both of these standards for imposing BMPs were recognized in *NRDC* v. *Costle,* 568 F.2d 1369, 1380 (D.C. Cir. 1977). The conditions in today's final MSGP are issued under the authority of both of these regulatory provisions. The pollution prevention or BMP requirements in today's final MSGP operate as limitations on effluent discharges that reflect the application of BAT/BCT. This is because the BMPs identified require the use of source control technologies which, in the context of the MSGP, are the best available of the technologies economically achievable (or the equivalent BCT finding). See *NRDC* v. *EPA,* 822 F.2d 104, 122–23 (D.C. Cir. 1987) (EPA has substantial discretion to impose nonquantitative permit requirements pursuant to Section 402(a)(1)). See also EPA's memorandum of August 1, 1996 entitled ''Interim Permitting Approach for Water Quality-Based Effluent Limitations for Storm Water Discharges.''

1. Prohibition of Non-storm Water Discharges

Today's final MSGP includes basically the same provisions pertaining to non-storm water discharges as the 1995 MSGP. Like the 1995 MSGP, today's MSGP does not authorize non-storm water discharges that are mixed with storm water except as provided below. Today's MSGP does authorize one additional non-storm water discharge: mist discharges which originate from cooling towers and which are deposited at an industrial facility and may be discharged. During the term of the 1995 MSGP, these discharges were brought to the attention of EPA with a request that the discharges be authorized under the reissued MSGP. The mist discharges are authorized under today's MSGP provided:

a. The permittee has evaluated the potential for the discharges to be contaminated by chemicals used in the cooling tower and determined that the levels of such chemicals in the discharges would not cause or contribute to a violation of an applicable water quality standard; and

b. The permittee has addressed this source of pollutants with appropriate BMPs in the SWPPP.

The other non-storm water discharges that are authorized under today's final MSGP are the same as those in the 1995 MSGP and include discharges from fire

[2] Section 9.12.2 of the final MSGP provides that facility operators with storm water discharges associated with industrial activity who, based on an evaluation of site specific conditions, believe that the appropriate conditions of this permit do not adequately represent BAT and BCT requirements for the facility may submit to the Director an individual application (Form 1 and Form 2F). A detailed explanation of the reasons why the conditions of the available general permits do not adequately represent BAT and BCT requirements for the facility as well as any supporting documentation must be included.

fighting activities; fire hydrant flushings; potable water sources, including waterline flushings; irrigation drainage; lawn watering; routine external building washdown without detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; compressor condensate; uncontaminated ground water or spring water; and foundation or footing drains where flows are not contaminated with process materials such as solvents that are combined with storm water discharges associated with industrial activity. In response to a comment, the final MSGP includes ''potable water sources, including waterline flushings'' on the list of authorized non-storm water discharges, but deletes the reference to ''drinking fountain water,'' which a commenter felt could conflict with local ordinances.

To be authorized under today's MSGP, these other sources of non-storm water (except flows from fire fighting activities) must be identified in the SWPPP prepared for the facility. (SWPPP requirements are discussed in more detail below). Where such discharges occur, the SWPPP must also identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

Today's final MSGP does not require pollution prevention measures to be identified and implemented for non-storm water flows from fire-fighting activities because these flows will generally be unplanned emergency situations where it is necessary to take immediate action to protect the public.

The prohibition of unpermitted non-storm water discharges in today's MSGP ensures that non-storm water discharges (except for those classes of non-storm water discharges that are conditionally authorized in Part 1.2.2.2 of the MSGP) are not inadvertently authorized by the permit. Where a storm water discharge is mixed with non-storm water that is not authorized by today's MSGP or another NPDES permit, the discharger should submit the appropriate application forms (Forms 1, 2C, and/or 2E) to gain permit coverage of the non-storm water portion of the discharge.

2. Releases of Reportable Quantities of Hazardous Substances and Oil

As discussed below, today's final MSGP includes the same provisions pertaining to releases of reportable quantities of hazardous substances and oil as the 1995 MSGP.

a. Today's final MSGP provides that the discharge of hazardous substances or oil from a facility must be eliminated or minimized in accordance with the SWPPP developed for the facility. Where a permitted storm water discharge contains a hazardous substance or oil in an amount equal to or in excess of a reporting quantity established under 40 CFR Part 117, or 40 CFR Part 302 during a 24-hour period, the following actions must be taken:

(1) Any person in charge of the facility that discharges hazardous substances or oil is required to notify the National Response Center (NRC) (800–424–8802; in the Washington, DC, metropolitan area, 202–426–2675) in accordance with the requirements of 40 CFR Part 117, and 40 CFR Part 302 as soon as they have knowledge of the discharge.

(2) The SWPPP for the facility must be modified within 14 calendar days of knowledge of the release to provide a description of the release, an account of the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and it must be modified where appropriate.

(3) The permittee must also submit to EPA within 14 calendar days of knowledge of the release a written description of the release (including the type and estimate of the amount of material released), the date that such release occurred, the circumstances leading to the release, and steps to be taken to modify the SWPPP for the facility.

b. Anticipated discharges containing a hazardous substance in an amount equal to or in excess of reporting quantities are those caused by events occurring within the scope of the relevant operating system. Facilities that have more than one anticipated discharge per year containing a hazardous substance in an amount equal to or in excess of a reportable quantity are required to:

(1) Submit notifications of the first release that occurs during a calendar year (or for the first year of this permit, after submission of an NOI); and

(2) Provide a written description in the SWPPP of the dates on which such releases occurred, the type and estimate of the amount of material released, and the circumstances leading to the releases. In addition, the SWPPP must address measures to minimize such releases.

c. Where a discharge of a hazardous substance or oil in excess of reporting quantities is caused by a non-storm water discharge (e.g., a spill of oil into a separate storm sewer), that discharge is not authorized by the MSGP and the discharger must report the discharge as required under 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302. In the event of a spill, the requirements of Section 311 of the CWA and other applicable provisions of Sections 301 and 402 of the CWA continue to apply. This approach is consistent with the requirements for reporting releases of hazardous substances and oil that make a clear distinction between hazardous substances typically found in storm water discharges and those associated with spills that are not considered part of a normal storm water discharge (see 40 CFR 117.12(d)(2)(i)).

3. Co-located Industrial Facilities

Like the 1995 MSGP, today's MSGP includes requirements pertaining to co-located industrial facilities. However, these requirements have been modified from the requirements of the 1995 MSGP to clarify their applicability. Co-located industrial activities occur when activities being conducted onsite fall into more than one of the categories of the industrial facilities listed in Part 1.2.1 of today's MSGP (e.g., a landfill at a wood treatment facility). Facilities operating under the 1995 MSGP have sometimes been unclear whether certain limited activities (e.g., minor vehicle maintenance activities at an industrial plant) would trigger the MSGP's requirements regarding co-located activities.

If you have co-located industrial activities on-site that are described in a sector(s) other than your primary sector, you must comply with all other applicable sector-specific conditions found in Part 6 for the co-located industrial activities. The extra sector-specific requirements are applied only to those areas of your facility where the extra-sector activities occur. An activity at a facility is not considered co-located if the activity, when considered separately, does not meet the description of a category of industrial activity covered by the storm water regulations, and identified by today's MSGP SIC code list. For example, unless you are actually hauling substantial amounts of freight or materials with your own truck fleet or are providing a trucking service to outsiders, simple maintenance of vehicles used at your facility is unlikely to meet the SIC code group 42 description of a motor freight transportation facility. Even though Sector P may not apply, the runoff from your vehicle maintenance facility would likely still be considered storm water

associated with industrial activity. As such, your SWPPP must still address the runoff from the vehicle maintenance facility—although not necessarily with the same degree of detail as required by Sector P—but you would not be required to monitor as per Sector P.

In the event there truly are co-located activities at your facility, today's MSGP authorizes, as does the 1995 MSGP, all storm water discharges provided that your facility complies with all SWPPP and monitoring requirements for each co-located activity. By monitoring the discharges from the different industrial activities, you can better determine the effectiveness of your SWPPP for controlling all major pollutants of concern in your storm water discharges. However, if monitoring for the same parameter is required for more than one sector (and the different industrial activities drain to the same outfall), then only one sample analysis is required for that parameter.

4. Numeric Effluent Limitations

Today's MSGP retains the numeric effluent limitations which were included in the 1995 MSGP, and also includes the effluent limitations guidelines which EPA recently finalized for certain storm water discharges from new and existing hazardous and non-hazardous landfills (65 FR 3007, January 19, 2000). The new effluent limitations guidelines for these landfills are discussed in more detail in the Sections VIII.K and L of this fact sheet (Special Requirements for Discharges Associated with Industry Activities).

Today's MSGP retains the numeric effluent limitations from the 1995 MSGP for the following discharges: coal pile runoff (including runoff from steam electric power plants subject to 40 CFR Part 423 requirements), discharges from phosphate fertilizer manufacturing (40 CFR Part 418), asphalt paving and roofing emulsions (40 CFR Part 443), cement manufacturing materials storage pile runoff (40 CFR Part 411), and discharges resulting from the spray down of lumber and wood products storage yards (wet decking) (40 CFR Part 429). In addition, the final MSGP authorizes mine dewatering discharges from construction sand and gravel, industrial sand, and crushed stone facilities (40 CFR Part 436) in EPA Regions 1, 2, 3, 6, 8, 9, 10. The actual numeric effluent limitations can be found in Part 6 of the final MSGP.

5. Compliance with Water Quality Standards

The 1995 MSGP does not specifically address compliance with water quality standards (WQS), other than to exclude from coverage discharges which may contribute to an exceedance of WQS. Today's final MSGP includes the same restriction on eligibility, and in Part 3.3 also includes certain requirements if exceedances occur for discharges covered by the MSGP. If a discharge authorized under the final MSGP is later discovered to cause, or have the reasonable potential to cause or contribute to, a violation of a WQS, the permitting authority will inform the permittee of the violation. The permittee must then take all necessary actions to ensure future discharges do not cause or contribute to the violation of WQS, and document these actions in the SWPPP. If violations remain or recur, coverage under the MSGP may be terminated by the permitting authority and an alternate permit issued. Today's final MSGP also clarifies that compliance with this requirement does not preclude enforcement actions as provided by the CWA for the underlying violation.

C. Common Storm Water Pollution Prevention Plan (SWPPP) Requirements

Like the 1995 MSGP, today's reissued MSGP requires that all facilities which intend to be covered by the MSGP for storm water discharges associated with industrial activity prepare and implement a SWPPP. The MSGP addresses pollution prevention plan requirements for a number of categories of industries. Following below is a discussion of the common permit requirements for all industries; special requirements for facilities subject to EPCRA Section 313 reporting requirements; and special requirements for facilities with outdoor salt storage piles. These are the permit requirements which apply to discharges associated with any of the industrial activities covered by today's final MSGP. These common requirements may be amended or further clarified in the industry-specific SWPPP requirements which are found in Part 6 of the final MSGP. These industry-specific requirements are additive for facilities where co-located industrial activities occur.

The Storm Water Pollution Prevention Plan (SWPPP) approach in today's final MSGP focuses on two major objectives: (1) to identify sources of pollution potentially affecting the quality of storm water discharges associated with industrial activity from the facility; and (2) ensure implementation of measures to minimize and control pollutants in storm water discharges associated with industrial activity from the facility.

The SWPPP requirements in today's final MSGP are intended to facilitate a process whereby the operator of the industrial facility thoroughly evaluates potential pollution sources at the site and selects and implements appropriate measures designed to prevent or control the discharge of pollutants in storm water runoff. The process involves the following four steps: (1) formation of a team of qualified plant personnel who will be responsible for preparing the plan and assisting the plant manager in its implementation; (2) assessment of potential storm water pollution sources; (3) selection and implementation of appropriate management practices and controls; and (4) periodic evaluation of the effectiveness of the plan to prevent storm water contamination.

EPA believes the pollution prevention approach is the most environmentally sound and cost-effective way to control the discharge of pollutants in storm water runoff from industrial facilities. This position is supported by the results of a comprehensive technical survey EPA completed in 1979.[3] The survey found that two classes of management practices are generally employed at industries to control the nonroutine discharge of pollutants from sources such as storm water runoff, drainage from raw material storage and waste disposal areas, and discharges from places where spills or leaks have occurred. The first class of management practices includes those that are low in cost, applicable to a broad class of industries and substances, and widely considered essential to a good pollution control program. Some examples of practices in this class are good housekeeping, employee training, and spill response and prevention procedures. The second class includes management practices that provide a second line of defense against the release of pollutants. This class addresses containment, mitigation, and cleanup. Since publication of the 1979 survey, EPA has imposed management practices and controls in NPDES permits on a case-by-case basis. The Agency also has continued to review the appropriateness and effectiveness of such practices,[4] as well as the

[3] See ''Storm Water Management for Industrial Activities,'' EPA, September 1992, EPA–832–R–92–006.

[4] For example, see ''Best Management Practices: Useful Tools for Cleaning Up,'' Thron, H. Rogoshewski, P., 1982, Proceedings of the 1982 Hazardous Material Spills Conference; ''The Chemical Industries'' Approach to Spill Prevention,'' Thompson, C., Goodier, J. 1980, Proceedings of the 1980 National Conference of Control of Hazardous Materials Spills; a series of EPA memoranda entitled ''Best Management Practices in NPDES Permits—Information Memorandum,'' 1983, 1985, 1986, 1987, 1988; Review of Emergency Systems: Report to Congress,'' EPA, 1988; and ''Analysis of Implementing

Continued

techniques used to prevent and contain oil spills.[5] Experience with these practices and controls has shown that they can be used in permits to reduce pollutants in storm water discharges in a cost-effective manner. In keeping with both the present and previous administration's objective to attain environmental goals through pollution prevention, pollution prevention has been and continues to be the cornerstone of the NPDES permitting program for storm water. EPA has developed guidance entitled ''Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices,'' September 1992, to assist permittees in developing and implementing pollution prevention measures.

Note: The discussions of the SWPPP requirements are grouped in subject areas and do not follow the exact order of the permit conditions.

1. Pollution Prevention Team (Part 4.2.1)

As a first step in the process of developing and implementing a SWPPP, permittees are required to identify a qualified individual or team of individuals to be responsible for developing the plan and assisting the facility or plant manager in its implementation. When selecting members of the team, the plant manager should draw on the expertise of all relevant departments within the plant to ensure that all aspects of plant operations are considered when the plan is developed. The plan must clearly describe the responsibilities of each team member as they relate to specific components of the plan. In addition to enhancing the quality of communication between team members and other personnel, clear delineation of responsibilities will ensure that every aspect of the plan is addressed by a specified individual or group of individuals. Pollution Prevention Teams may consist of one individual where appropriate (*e.g.,* in certain small businesses with limited storm water pollution potential).

2. Description of the Facility and Potential Pollution Sources (Part 4.2.2)

Each SWPPP must describe activities, materials, and physical features of the facility that may contribute significant amounts of pollutants to storm water runoff or, during periods of dry weather, result in pollutant discharges through the separate storm sewers or storm water drainage systems that drain the facility. This assessment of storm water pollution risk will support subsequent efforts to identify and set priorities for necessary changes in materials, materials management practices, or site features, as well as aid in the selection of appropriate structural and nonstructural control techniques. Some operators may find that significant amounts of pollutants are running onto the facility property. Such operators should identify and address the contaminated runon in the SWPPP. If the runon cannot be addressed or diverted by the permittee, the permitting authority should be notified. If necessary, the permitting authority may require the operator of the adjacent facility to obtain a permit.

Part 6 of the final MSGP includes industry-specific requirements for the various industry sectors covered by today's permit. All SWPPPs generally must describe the following elements:

a. *Description of the Facility Site and Receiving Waters/Wetlands (Parts 4.2.2 and 4.2.3):* The plan must contain a map of the site that shows the location of outfalls covered by the permit (or by other NPDES permits), the pattern of storm water drainage, an indication of the types of discharges contained in the drainage areas of the outfalls, structural features that control pollutants in runoff,[6] surface water bodies (including wetlands), places where significant materials[7] are exposed to rainfall and runoff, and locations of major spills and leaks that occurred in the 3 years prior to the date of the submission of an NOI to be covered under this permit. The map also must show areas where the following activities take place: fueling, vehicle and equipment maintenance and/or cleaning, loading and unloading, material storage (including tanks or other vessels used for liquid or waste storage), material processing, and waste disposal. For areas of the facility that generate storm water discharges with a reasonable potential to contain significant amounts of pollutants, the map must indicate the probable direction of storm water flow and the pollutants likely to be in the discharge. Flows with a significant potential to cause soil erosion also must be identified. In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map.

b. *Summary of Potential Pollutant Sources (Part 4.2.4):* The description of potential pollution sources culminates in a narrative assessment of the risk potential that sources of pollution pose to storm water quality. This assessment should clearly point to activities, materials, and physical features of the facility that have a reasonable potential to contribute significant amounts of pollutants to storm water. Any such activities, materials, or features must be addressed by the measures and controls subsequently described in the plan. In conducting the assessment, the facility operator must consider the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The assessment must list any significant pollution sources at the site and identify the pollutant parameter or parameters (*i.e.,* biochemical oxygen demand, suspended solids, etc.) associated with each source.

c. *Significant Spills and Leaks (Part 4.2.5):* The plan must include a list of any significant spills and leaks of toxic or hazardous pollutants that occurred in the three years prior to the date of the submission of an NOI to be covered under this permit. Significant spills include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under Section 311 of CWA (see 40 CFR 110.10 and 40 CFR 117.21) or Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (see 40 CFR 302.4). Significant spills may also include releases of oil or hazardous substances that are not in excess of reporting requirements and releases of materials that are not classified as oil or a hazardous substance.

The listing should include a description of the causes of each spill or leak, the actions taken to respond to each release, and the actions taken to prevent similar such spills or leaks in the future. This effort will aid the facility operator as she or he examines existing spill prevention and response procedures and develops any additional

Permitting Activities for Storm Water Discharges Associated with Industrial Activity,'' EPA, 1991.

[5] See for example, ''The Oil Spill Prevention, Control and Countermeasures Program Task Force Report,'' EPA, 1988; and ''Guidance Manual for the Development of an Accidental Spill Prevention Program,'' prepared by SAIC for EPA, 1986.

[6] Nonstructural features such as grass swales and vegetative buffer strips also should be shown.

[7] Significant materials include, but are not limited to the following: raw materials; fuels; solvents, detergents, and plastic pellets; finished materials, such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); any chemical the facility is required to report pursuant to EPCRA Section 313; fertilizers; pesticides; and waste products, such as ashes, slag, and sludge that have the potential to be released with storm water discharges. (See 40 CFR 122.26(b)(8)).

procedures necessary to fulfill the requirements set forth in Parts 4 and 6 of the final permit.

d. *Allowable and Prohibited Non-storm Water Discharges (Part 4.4):* Each SWPPP must include a certification, signed by an authorized individual, that discharges from the site have been tested or evaluated for the presence of non-storm water discharges. The certification must describe possible significant sources of non-storm water, the results of any test and/or evaluation conducted to detect such discharges, the test method or evaluation criteria used, the dates on which tests or evaluations were performed, and the onsite drainage points directly observed during the test or evaluation. Acceptable test or evaluation techniques include dye tests, television surveillance, observation of outfalls or other appropriate locations during dry weather, water balance calculations, and analysis of piping and drainage schematics.[8]

Except for flows that originate from fire fighting activities, sources of non-storm water that are specifically identified in the permit as being eligible for authorization under the general permit must be identified in the plan. SWPPPs must identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water discharge.

EPA recognizes that certification may not be feasible where facility personnel do not have access to an outfall, manhole, or other point of access to the conduit that ultimately receives the discharge. In such cases, the plan must describe why certification was not feasible. Permittees who are not able to certify that discharges have been tested or evaluated must notify the Director in accordance with Part 4.4 of the final MSGP.

e. *Sampling Data (Part 4.2.6):* Any existing data on the quality or quantity of storm water discharges from the facility must be described in the plan, including data collected for Part 2 of the group application process. These data may be useful for locating areas that have contributed pollutants to storm water. The description should include a discussion of the methods used to collect and analyze the data. Sample collection points should be identified in the plan and shown on the site map.

[8] In general, smoke tests should not be used for evaluating the discharge of non-storm water to a separate storm sewer as many sources of non-storm water typically pass through a trap that would limit the effectiveness of the smoke test.

3. Selection and Implementation of Storm Water Controls (Part 4.2.7, et al.)

Following completion of the source identification and assessment phase, the permit requires the permittee to evaluate, select, and describe the pollution prevention measures, BMPs, and other controls that will be implemented at the facility. BMPs include processes, procedures, schedules of activities, prohibitions on practices, and other management practices that prevent or reduce the discharge of pollutants in storm water runoff.

EPA emphasizes the implementation of pollution prevention measures and BMPs that reduce possible pollutant discharges at the source. Source reduction measures include, among others, preventive maintenance, chemical substitution, spill prevention, good housekeeping, training, and proper materials management. Where such practices are not appropriate to a particular source or do not effectively reduce pollutant discharges, EPA supports the use of source control measures and BMPs such as material segregation or covering, water diversion, and dust control. Like source reduction measures, source control measures and BMPs are intended to keep pollutants out of storm water. The remaining classes of BMPs, which involve recycling or treatment of storm water, allow the reuse of storm water or attempt to lower pollutant concentrations prior to discharge.

The SWPPP must discuss the reasons each selected control or practice is appropriate for the facility and how each will address one or more of the potential pollution sources identified in the plan. The plan also must include a schedule specifying the time or times during which each control or practice will be implemented. In addition, the plan should discuss ways in which the controls and practices relate to one another and, when taken as a whole, produce an integrated and consistent approach for preventing or controlling potential storm water contamination problems. The permit requirements included for the various industry sectors in Part 6 of today's final MSGP generally require that the portion of the plan that describes the measures and controls address the following minimum components.

When ''minimize/reduce'' is used relative to SWPPP measures, EPA means to consider and implement BMPs that will result in an improvement over the baseline conditions as it relates to the levels of pollutants identified in storm water discharges with due consideration to economic feasibility and effectiveness.

a. *Nonstructural Controls:*

• Good Housekeeping. Good housekeeping involves using practical, cost-effective methods to identify ways to maintain a clean and orderly facility and keep contaminants out of separate storm sewers. It includes establishing protocols to reduce the possibility of mishandling chemicals or equipment and training employees in good housekeeping techniques. These protocols must be described in the plan and communicated to appropriate plant personnel.

• Minimizing Exposure. Where practicable, protecting potential pollutant sources from exposure to storm water is an important control option. Pollutants that are never allowed to contaminate storm water do not require development of ''treatment'' type BMPs. Elimination of all exposure to storm water may also make the facility eligible for the ''No Exposure Certification'' exclusion from permitting at 40 CFR 122.26(g)

• Preventive Maintenance. Permittees must develop a preventive maintenance program that involves regular inspection and maintenance of storm water management devices and other equipment and systems. The program description should identify the devices, equipment, and systems that will be inspected; provide a schedule for inspections and tests; and address appropriate adjustment, cleaning, repair, or replacement of devices, equipment, and systems. For storm water management devices such as catch basins and oil/water separators, the preventive maintenance program should provide for periodic removal of debris to ensure that the devices are operating efficiently. For other equipment and systems, the program should reveal and enable the correction of conditions that could cause breakdowns or failures that may result in the release of pollutants.

• Spill Prevention and Response Procedures. Based on an assessment of possible spill scenarios, permittees must specify appropriate material handling procedures, storage requirements, containment or diversion equipment, and spill cleanup procedures that will minimize the potential for spills and, in the event of a spill, enable proper and timely response. Areas and activities that typically pose a high risk for spills include loading and unloading areas, storage areas, process activities, and waste disposal activities. These activities and areas, and their accompanying drainage points, must be described in the plan. For a spill

prevention and response program to be effective, employees should clearly understand the proper procedures and requirements and have the equipment necessary to respond to spills.

• Routine Inspections. In addition to the comprehensive site evaluation, facilities are required to conduct periodic inspections of designated equipment and areas of the facility. Industry-specific requirements for such inspections, if any, are set forth in Part 6 of the final MSGP. When required, qualified personnel must be identified to conduct inspections at appropriate intervals specified in the plan. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections must be maintained. These periodic inspections are different from the comprehensive site evaluation, even though the former may be incorporated into the latter. Equipment, area, or other inspections are typically visual and are normally conducted on a regular basis, *e.g.*, daily inspections of loading areas. Requirements for such periodic inspections are specific to each industrial sector in today's permit, whereas the comprehensive site compliance evaluation is required of all industrial sectors. Area inspections help ensure that storm water pollution prevention measures (*e.g.*, BMPs) are operating and properly maintained on a regular basis. The comprehensive site evaluation is intended to provide an overview of the entire facility's pollution prevention activities. Refer to Part VI.C.3.h. below for more information on the comprehensive site evaluation.

• Employee Training. The SWPPP must describe a program for informing personnel at all levels of responsibility of the components and goals of the SWPPP. The training program should address topics such as good housekeeping, materials management, and spill response procedures. Where appropriate, contractor personnel also must be trained in relevant aspects of storm water pollution prevention. A schedule for conducting training must be provided in the plan. Several sections in Part 6 of today's final MSGP specify a minimum frequency for training of once per year. Others indicate that training is to be conducted at an appropriate interval. EPA recommends that facilities conduct training annually at a minimum. However, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to the storm water pollution prevention plan.

b. *Structural Controls:*

• Sediment and Erosion Control. The SWPPP must identify areas that, due to topography, activities, soils, cover materials, or other factors have a high potential for significant soil erosion. The plan must identify measures that will be implemented to limit erosion in these areas.

• Management of Runoff. The plan must contain a narrative evaluation of the appropriateness of traditional storm water management practices (*i.e.*, practices other than those that control pollutant sources) that divert, infiltrate, reuse, or otherwise manage storm water runoff so as to reduce the discharge of pollutants. Appropriate measures may include, among others, vegetative swales, collection and reuse of storm water, inlet controls, snow management, infiltration devices, and wet detention/retention basins.

c. *Example BMPs:* Part 4.2.7.2.2 includes a list of example BMPs that could be considered for use in a SWPPP, for example: detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems (which combine several practices). These examples are not intended to limit the creativity of facility operators in developing alternative BMPs or applications for BMPs that increase cost effectiveness.

d. *Selection of Controls:* Based on the results of the evaluation, the plan must identify practices that the permittee determines are reasonable and appropriate for the facility. The plan also should describe the particular pollutant source area or activity to be controlled by each storm water management practice. Reasonable and appropriate practices must be implemented and maintained according to the provisions prescribed in the plan.

In selecting storm water management measures, it is important to consider the potential effects of each method on other water resources, such as ground water. Although storm water pollution prevention plans primarily focus on storm water management, facilities must also consider potential ground water pollution problems and take appropriate steps to avoid adversely affecting ground water quality. For example, if the water table is unusually high in an area, an infiltration pond may contaminate a ground water source unless special preventive measures are taken. Under EPA's July 1991 Ground Water Protection Strategy, States are encouraged to develop Comprehensive State Ground Water Protection Programs (CSGWPP). Efforts to control storm water should be compatible with State ground water objectives as reflected in CSGWPPs.

e. *Other Controls:* Today's final MSGP includes a new requirement that no solid materials, including floating debris may be discharged to waters of the United States, except as authorized by a permit under Section 404 of the Clean Water Act. In addition, off-site tracking of raw, final, or waste materials or sediment, and the generation of dust must be minimized. Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas must be minimized. These requirements are similar to requirements included in EPA's construction general storm water permit (63 FR 7858, February 17, 1998) which EPA believes would be appropriate for industrial facilities as well.

f. *Maintenance (Part 4.3):* All BMPs identified in the SWPPP must be maintained in effective operating condition.

g. *Controls for Allowable Non-Storm Water (Part 4.4.2):* Where an allowable non-storm water has been identified, appropriate controls for that discharge must be included in the permit. In many cases, the same types of controls for contaminated storm water would suffice, but the nature and volume of potential pollutants in the non-storm water discharges must be taken into consideration in selection of controls.

h. *Comprehensive Site Compliance Evaluation (Part 4.9):* Today's final MSGP requires that the SWPPP describe the scope and content of the comprehensive site evaluations that qualified personnel will conduct to (1) confirm the accuracy of the description of potential pollution sources contained in the plan, (2) determine the effectiveness of the plan, and (3) assess compliance with the terms and conditions of the permit. Note that the comprehensive site evaluations are not the same as periodic or other inspections described for certain industries in Section VI.C.3.d of this fact sheet. However, in the instances when frequencies of inspections and the comprehensive site compliance evaluation overlap, they may be combined allowing for efficiency as long as the requirements for both types of inspections are met. The plan must indicate the frequency of comprehensive evaluations which must be at least once a year, except where comprehensive site evaluations are shown in the plan to be impractical for inactive mining sites, due to remote

location and inaccessibility.[9] The individual or individuals who will conduct the comprehensive site evaluation must be identified in the plan and should be members of the pollution prevention team. Material handling and storage areas and other potential sources of pollution must be visually inspected for evidence of actual or potential pollutant discharges to the drainage system. Inspectors also must observe erosion controls and structural storm water management devices to ensure that each is operating correctly. Equipment needed to implement the SWPPP, such as that used during spill response activities, must be inspected to confirm that it is in proper working order.

The results of each comprehensive site evaluation must be documented in a report signed by an authorized company official. The report must describe the scope of the comprehensive site evaluation, the personnel making the comprehensive site evaluation, the date(s) of the comprehensive site evaluation, and any major observations relating to implementation of the SWPPP. Comprehensive site evaluation reports must be retained for at least three years after the date of the evaluation. Based on the results of each comprehensive site evaluation, the description in the plan of potential pollution sources and measures and controls must be revised as appropriate within two weeks after each comprehensive site evaluation, unless indicated otherwise in Part 6 of the permit. If existing BMPs need to be modified or if additional BMPs are necessary, implementation must be completed before the next anticipated storm, or not more than 12 weeks after completion of the comprehensive site evaluation.

i. *Applicable State, Tribal, or Local Plans (Part 4.8):* The SWPPP must be consistent with any applicable requirements of State, Tribal, or Local storm water, waste disposal, sanitary sewer or septic system regulations to the extent these apply to a facility and are more stringent than the requirements of this permit.

j. *Documentation of Permit Eligibility with Regards to ESA and NHPA Requirements (Parts 4.5 and 4.6):* To better ensure compliance with the requirements of the ESA and NHPA, Parts 4.5 and 4.6 of today's final MSGP require that documentation be included with the SWPPP demonstrating permit eligibility with regards to the requirements of the ESA and NHPA. The following information is required for the ESA:

- Information on whether listed endangered or threatened species, or critical habitat, are found in proximity to the facility;
- Whether such species may be jeopardized by the storm water discharges or storm water discharge-related activities;
- Results of the Addendum A endangered species screening determinations; and
- A description of measures necessary to protect listed endangered or threatened species, or critical habitat, including any terms or conditions that are imposed under the eligibility requirements of Part 1.2.3.6. The final MSGP notes that discharges from facilities which fail to describe and implement such measures are ineligible for coverage under the permit.

The following information is required for the NHPA determination:

- Information on whether the storm water discharges or storm water discharge-related activities would have an effect on a property that is listed or eligible for listing on the National Register of Historic Places;
- Where effects may occur, any written agreements which have been made with the State Historic Preservation Officer, Tribal Historic Preservation Officer, or other Tribal leader to mitigate those effects;
- Results of the Addendum B historic places screening determinations; and
- A description of measures necessary to avoid or minimize adverse impacts on places listed, or eligible for listing, on the National Register of Historic Places, including any terms or conditions that are imposed under the eligibility requirements of Part 1.2.3.7 of this permit. The final MSGP notes that discharges from facilities which fail to describe and implement such measures are ineligible for coverage under the permit.

k. *Keeping a Copy of the Permit with the SWPPP (Part 4.7):* A new requirement to have a copy of the permit language in the SWPPP has been added to today's permit. The ''confirmation'' letter received from the NOI Processing Center is not the permit; it is essentially only the equivalent of a ''receipt'' for a facility's ''registration'' (NOI) to use the general permit. Since determining permit eligibility and preparing a SWPPP is required prior to obtaining permit coverage, a copy of the permit would be needed anyway. Requiring a copy of the permit in the SWPPP ensures that facility operators, and not just whoever prepared the SWPPP, will have ready access to all permit requirements.

l. *Recordkeeping and Keeping the SWPPP Current (Parts 4.9.4, 4.10, et al.):* Records must be kept with the SWPPP documenting the status and effectiveness of plan implementation. At a minimum, records must address results of the annual Comprehensive Site Compliance Evaluations, routine facility inspections, spills, monitoring, and maintenance activities. The plan also must describe a system that enables timely reporting of storm water management-related information to appropriate plant personnel. Inspectors or other enforcement officers will ask for records documenting permit compliance during inspections or facility compliance reviews.

The SWPPP must be updated whenever there is a change at the facility that would significantly affect the discharges authorized under the MSGP. The SWPPP must also be updated whenever monitoring results and/or an inspection by the permittee or by local, state, tribal, or federal officials indicate a portion of the SWPPP is proving to be ineffective in controlling storm water discharge quality.

m. *Signature, Plan Review, and Access to the SWPPP (Part 4.11):* The SWPPP must be signed and certified in accordance with Part 7 of the permit. A copy of the SWPPP must be kept on site at the facility or be locally available for the use of the Director, a State, Tribe, or local agency (*e.g.*, MS4 operator) at the time of an onsite inspection. The SWPPP must also be made available to the U.S. Fish and Wildlife Service or National Marine Fisheries Service upon request. Since SWPPPs are living documents that change over time, access to the current version of the SWPPP is critical in assessing permit compliance. Facilities are also required to provide a copy of the SWPPP to the public when requested in writing to do so.

The Director may notify you at any time that your SWPPP does not meet one or more of the minimum requirements of this permit. The notification will identify provisions of the permit which are not being met, as well as the required modifications. Required changes must be made within thirty (30) calendar days and a written certification submitted to the Director confirming that the changes were made.

EPA does not intend to require public comment on SWPPPs or hold public hearings. As noted above, EPA may require changes to a SWPPP when necessary and may consider concerns from the public in making such judgments. The MSGP also provides

[9] Where annual site inspections are shown in the plan to be impractical for inactive mining sites due to remote location and inaccessibility, site inspections must be conducted at least once every three years.

that individual permits may be required when the MSGP is inappropriate for a given facility. During the issuance of the individual permits, the public would have an opportunity to comment on the requirements of the permits.

4. Deadlines

Today's MSGP requires that permittees previously covered by the 1995 MSGP must update their SWPPPs to comply with any new requirements of today's MSGP by the date they submit their new NOIs. As noted earlier, the new NOIs are due January 29, 2001. However, a permittee may request an extension for the SWPPP update not to exceed 270 days from the expiration date of the 1995 MSGP.

D. Special Requirements

1. Special Requirements for Storm Water Discharges Associated With Industrial Activity From Facilities Subject to EPCRA Section 313 Requirements (Part 4.12)

Today's final MSGP replaces the special requirements of the 1995 MSGP for certain permittees subject to reporting requirements under Section 313 of the EPCRA (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA)) with a requirement to identify areas with these pollutants. EPCRA Section 313 requires operators of certain facilities that manufacture (including import), process, or otherwise use listed toxic chemicals to report annually their releases of those chemicals to any environmental media. Listed toxic chemicals include more than 500 chemicals and chemical classes listed at 40 CFR Part 372 (including the recently added chemicals published November 30, 1994).

By requiring identification of EPCRA 313 chemicals in the summary of potential pollutant sources under the Storm Water Pollution Prevention Plan (Part 4.2.4), the facility operator is then required to develop appropriate storm water controls for such areas (Part 4.2.7). EPA expects that many controls for EPCRA chemicals will continue to be driven by other state and federal environmental regulations such as Spill Prevention Control and Countermeasure (SPCC) plans required under Section 311 of the CWA, etc. as long as such a requirement is incorporated into the SWPPP.

This reduction in permit complexity by eliminating redundant requirements was requested by members of the regulated community.

2. Special Requirements for Storm Water Discharges Associated With Industrial Activity From Salt Storage Facilities

Today's MSGP retains the same special requirements as the 1995 MSGP for storm water discharges associated with industrial activity from salt storage facilities. Storage piles of salt used for deicing or other commercial or industrial purposes must be enclosed or covered to prevent exposure to precipitation, except for exposure resulting from adding or removing materials from the pile. This requirement only applies to runoff from storage piles discharged to waters of the United States. Facilities that collect all the runoff from their salt piles and reuse it in their processes or discharge it subject to a separate NPDES permit do not need to enclose or cover their piles.

These special requirements have been included in today's permit based on human health and aquatic effects resulting from storm water runoff from salt storage piles compounded with the prevalence of salt storage piles across the United States.

3. Consistency With Other Plans

SWPPPs may reference the existence of other plans for Spill Prevention Control and Countermeasure (SPCC) developed for the facility under Section 311 of the CWA or BMP programs otherwise required by an NPDES permit for the facility as long as such requirement is incorporated into the SWPPP.

E. Monitoring and Reporting Requirements

Today's final MSGP retains the same monitoring requirements as the existing MSGP. Numerous comments were submitted on these monitoring requirements. A summary of EPA's responses to these comments and justification for retaining these requirements is contained in this section. A more detailed discussion is found in Section IX of this fact sheet (Summary of Responses to Comments). Responses to individual comments are contained in the Water Docket.

Like the 1995 MSGP, today's final MSGP includes three general types of monitoring: analytical monitoring or chemical monitoring; compliance monitoring for effluent guidelines compliance, and visual examinations of storm water discharges. A general description of each of these types of monitoring which was provided with the 1995 MSGP is repeated below.

1. Analytical Monitoring Requirements

Analytical monitoring requirements involve laboratory chemical analyses of samples collected by the permittee. The results of the analytical monitoring are quantitative concentration values for different pollutants, which can be easily compared to the results from other sampling events, other facilities, or to national benchmarks.

The categories of facilities subject to analytical monitoring in today's final MSGP are noted in Table 1 of this fact sheet. The MSGP requires analytical monitoring for the industry sectors or subsectors that demonstrated in the group application data a potential to discharge pollutants at concentrations of concern or, in certain State-specific cases, to satisfy those States' requirements. The data submitted with the group permit applications were reviewed by EPA to determine the industry sectors and subsectors listed in Table 1 of this fact sheet that are to be subject to analytical monitoring requirements. First, EPA divided the Part 1 and Part 2 application data by the industry sectors listed in Table 1. Where a sector was found to contain a wide range of industrial activities or potential pollutant sources, it was further subdivided into the industry subsectors listed in Table 1. Next, EPA reviewed the information submitted in Part 1 of the group applications regarding the industrial activities, significant materials exposed to storm water, and the material management measures employed. This information helped identify potential pollutants that may be present in the storm water discharges. Then EPA entered into a database the sampling data submitted in Part 2 of the group applications. Those data were arrayed according to industrial sector and subsector for the purposes of determining when analytical monitoring would be appropriate.

To conduct a comparison of the results of the statistical analyses to determine when analytical monitoring would be required, EPA established ''benchmark'' concentrations for the pollutant parameters on which monitoring results had been received. The ''benchmarks'' are the pollutant concentrations above which EPA determined represent a level of concern. The level of concern is a concentration at which a storm water discharge could potentially impair, or contribute to impairing, water quality or affect human health from ingestion of water or fish. The benchmarks are also viewed by EPA as a level that, if below, a facility presents little potential for water quality concern. As such, the benchmarks also

provide an appropriate level to determine whether a facility's storm water pollution prevention measures are successfully implemented. The benchmark concentrations are not effluent limitations and should not be interpreted or adopted as such. These values are merely levels which EPA has used to determine if a storm water discharge from any given facility merits further monitoring to ensure that the facility has been successful in implementing a SWPPP. As such, these levels represent a target concentration for a facility to achieve through implementation of pollution prevention measures at the facility. Table 3 lists the parameter benchmark values and the sources used for the benchmarks. Two changes from the 1995 MSGP are the addition of benchmark values for total Cyanide and Total Magnesium. Benchmark values for the two parameters were included in the Fact Sheet of the 1995 MSGP at Table K–3, but were inadvertently not included in the general listing of parameter benchmark values (Table 5 of the Fact Sheet for the 1995 MSGP). Additional information explaining the derivation of the benchmarks can be found in the fact sheet for the 1995 MSGP (60 FR 50825).

TABLE 3.—PARAMETER BENCHMARK VALUES

Parameter name	Benchmark level	Source
Biochemical Oxygen Demand (5 day)	30 mg/L	4
Chemical Oxygen Demand	120 mg/L	5
Total Suspended Solids	100 mg/L	7
Oil and Grease	15 mg/L	8
Nitrate + Nitrite Nitrogen	0.68 mg/L	7
Total Phosphorus	2.0 mg/L	6
pH	6.0–9.0 s.u.	4
Acrylonitrile (c)	7.55 mg/L	2
Aluminum, Total (pH 6.5–9)	0.75 mg/L	1
Ammonia	19 mg/L	1
Antimony, Total	0.636 mg/L	9
Arsenic, Total (c)	0.16854 mg/L	9
Benzene	0.01 mg/L	10
Beryllium, Total (c)	0.13 mg/L	2
Butylbenzyl Phthalate	3 mg/L	3
Cadmium, Total (H)	0.0159 mg/L	9
Chloride	860 mg/L	1
Copper, Total (H)	0.0636 mg/L	9
Cyanide, Total	0.0636 mg/l	9
Dimethyl Phthalate	1.0 mg/L	11
Ethylbenzene	3.1 mg/L	3
Fluoranthene	0.042 mg/L	3
Fluoride	1.8 mg/L	6
Iron, Total	1.0 mg/L	12
Lead, Total (H)	0.0816 mg/L	1
Magnesium, Total	0.0636 mg/l	9
Manganese	1.0 mg/L	13
Mercury, Total	0.0024 mg/L	1
Nickel, Total (H)	1.417 mg/L	1
PCB–1016 (c)	0.000127 mg/L	9
PCB–1221 (c)	0.10 mg/L	10
PCB–1232 (c)	0.000318 mg/L	9
PCB–1242 (c)	0.00020 mg/L	10
PCB–1248 (c)	0.002544 mg/L	9
PCB–1254 (c)	0.10 mg/L	10
PCB–1260 (c)	0.000477 mg/L	9
Phenols, Total	1.0 mg/L	11
Pyrene (PAH,c)	0.01 mg/L	10
Selenium, Total (*)	0.2385 mg/L	9
Silver, Total (H)	0.0318 mg/L	9
Toluene	10.0 mg/L	3
Trichloroethylene (c)	0.0027 mg/L	3
Zinc, Total (H)	0.117 mg/L	1

Sources:
1. ''EPA Recommended Ambient Water Quality Criteria.'' Acute Aquatic Life Freshwater.
2. ''EPA Recommended Ambient Water Quality Criteria.'' LOEL Acute Freshwater.
3. ''EPA Recommended Ambient Water Quality Criteria.'' Human Health Criteria for Consumption of Water and Organisms.
4. Secondary Treatment Regulations (40 CFR 133).
5. Factor of 4 times BOD5 concentration—North Carolina benchmark.
6. North Carolina storm water benchmark derived from NC Water Quality Standards.
7. National Urban Runoff Program (NURP) median concentration.
8. Median concentration of Storm Water Effluent Limitation Guideline (40 CFR Part 419).
9. Minimum Level (ML) based upon highest Method Detection Limit (MDL) times a factor of 3.18.
10. Laboratory derived Minimum Level (ML).
11. Discharge limitations and compliance data.
12. ''EPA Recommended Ambient Water Quality Criteria.'' Chronic Aquatic Life Freshwater.
13. Colorado—Chronic Aquatic Life Freshwater—Water Quality Criteria.

Notes:
(*) Limit established for oil and gas exploration and production facilities only.
(c) carcinogen.

(H) hardness dependent.
(PAH) Polynuclear Aromatic Hydrocarbon.
Assumptions:
Receiving water temperature − 20 C.
Receiving water pH − 7.8.
Receiving water hardness CaCO3 100 mg/L.
Receiving water salinity 20 g/kg
Acute to Chronic Ratio (ACR) − 10.

EPA prepared a statistical analysis of the sampling data for each pollutant parameter reported within each sector or subsector. (Only where EPA did not subdivide an industry sector into subsectors was an analysis of the entire sector's data performed.) The statistical analysis was performed assuming a delta log normal distribution of the sampling data within each sector/subsector. The analyses calculated median, mean, maximum, minimum, 95th, and 99th percentile concentrations for each parameter. The results of the analyses can be found in the appropriate section of Section VIII of the fact sheet accompanying the 1995 MSGP. From this analysis, EPA was able to identify pollutants for further evaluation within each sector or subsector.

EPA next compared the median concentration of each pollutant for each sector or subsector to the benchmark concentrations listed in Table 3. EPA also compared the other statistical results to the benchmarks to better ascertain the magnitude and range of the discharge concentrations to help identify the pollutants of concern. EPA did not conduct this analysis if a sector had data for a pollutant from less than three individual facilities. Under these circumstances, the sector or subsector would not have this pollutant identified as a pollutant of concern. This was done to ensure that a reasonable number of facilities represented the industry sector or subsector as a whole and that the analysis did not rely on data from only one facility.

For each industry sector or subsector, parameters with a median concentration higher than the benchmark level were considered pollutants of concern for the industry and identified as potential pollutants for analytical monitoring under today's permit. EPA then analyzed the list of potential pollutants to be monitored against the lists of significant materials exposed and industrial activities which occur within each industry sector or subsector as described in the Part I application information. Where EPA could identify a source of a potential pollutant which is directly related to industrial activities of the industry sector or subsector, the permit identifies that parameter for analytical monitoring. If EPA could not identify a source of a potential pollutant which was associated with the sector/subsector's industrial activity, the permit does not require monitoring for the pollutant in that sector/subsector. Industries with no pollutants for which the median concentrations are higher than the benchmark levels are not required to perform analytical monitoring under this permit, with the exceptions explained below.

In addition to the sectors and subsectors identified for analytical monitoring using the methods described above, EPA determined, based upon a review of the degree of exposure, types of materials exposed, special studies and in some cases inadequate sampling data in the group applications, that the following industries also warrant analytical monitoring notwithstanding the absence of data on the presence or absence of certain pollutants in the group applications: Sector K (hazardous waste treatment storage and disposal facilities), and Sector S (airports which use more than 100,000 gallons per year of glycol-based fluids or 100 tons of urea for deicing). Today's final MSGP retains the monitoring requirements of the 1995 MSGP due to the high potential for contamination of storm water discharge which EPA believes was not adequately characterized by group applicants in the information they provided in the group application process. Like the 1995 MSGP, exemptions for today's MSGP would be on a pollutant-by-pollutant and outfall-by-outfall basis.

As part of the reissuance process for today's MSGP, EPA evaluated Discharge Monitoring Reports (DMRs) submitted by facilities for analytical monitoring conducted during the second and fourth year of the 1995 MSGP. The purpose of the evaluation was to evaluate any trends in the monitoring results. One factor common to almost all industrial sectors, however, was that the number of DMRs submitted for the year-four monitoring period far exceeded the number of DMRs submitted for the year-two monitoring period. For the second-year monitoring period, EPA received 380 DMRs, whereas 1377 DMRs were received for the fourth-year monitoring period. For example, the number of Sector M (Auto Salvage Yards) facilities that submitted monitoring results for total suspended solids from the second year monitoring period was roughly 26; the number of DMRs submitted for the fourth year monitoring for the same industrial sector and parameter was 240. As a result, EPA could not conduct the trends analysis it intended to perform.

While the exact reason for the significant increase in the number of DMRs received in year 4 of the permit (as compared to year 2) is unknown, EPA suspects it is related to the administrative extension of EPA's 1992 baseline general permit. Although the 1992 general permit expired in September 1997, the permit was administratively extended. It was not until December 28, 1998 that facilities previously covered under EPA's baseline industrial permit were required to obtain coverage under the MSGP. As a result, facilities previously covered under the baseline industrial permit were not required to conduct analytical monitoring (as required in the second year of the 1995 MSGP). In essence, the fourth-year monitoring data set EPA received represents the baseline of pollutant discharge information under the sector-specific industrial general storm water permit.

Based on the information received during the public comment period and the DMRs received, EPA believes it is premature to make any final conclusions regarding the value of the Agency's acquisition of the monitoring data or to consider dropping the monitoring. EPA is retaining quarterly analytic monitoring requirements for storm water discharges as per the 1995 MSGP for all sectors previously identified. Comparison of pollutant levels against benchmark levels is still regarded as one of the important tools operators must use to evaluate their facilities' storm water pollution prevention plans (SWPPPs) and best management practices (BMPs). Facilities' discharge monitoring reports (DMRs) are also vital to the Agency for use in characterizing an industrial sector's discharges. EPA has not, and does not, intend for pollutant levels above the benchmark values to mean a facility is out of compliance with the MSGP–2000.

While today's permit retains the analytical monitoring requirements of the 1995 MSGP, the Agency continues to support the position that any analytical monitoring program required

under the MSGP needs to be structured so that it provides useful information to facility operators, EPA and the general public on the effectiveness of Storm Water Pollution Prevention Plans. EPA commits to using data from the 1995 and 2000 permits to evaluate the effectiveness of management practices on an industry sector basis and to evaluate the need for changes in monitoring protocols for the next permit. The Agency will work with program stakeholders in conducting the evaluation and may seek to implement certain changes possibly on a pilot basis.

Like the 1995 MSGP, today's MSGP requires that all facilities, save for Sector G, within an industry sector or subsector identified for analytical monitoring must, at a minimum, monitor their storm water discharges quarterly during the second year of permit coverage, unless the facility exercises the Alternative Certification described in Section VI.E.3 of this fact sheet. At the end of the second year of coverage under the current permit, a facility is required to calculate the average concentration for each parameter for which the facility is required to monitor. If the average concentration for a pollutant parameter is less than or equal to the benchmark value, then the permittee is not required to conduct analytical monitoring for that pollutant during the fourth year of the permit. If, however, the average concentration for a pollutant is greater than the benchmark value, then the permittee is required to conduct quarterly monitoring for that pollutant during the fourth year of permit coverage. Analytical monitoring is not required during the first, third, and fifth year of the permit. When average concentrations exceed benchmark levels, facilities are encouraged to conduct more monitoring if appropriate to identify additional management practices which may be necessary to include in their SWPPP. The exclusion from analytical monitoring in the fourth year of the permit was conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit. For purposes of the above monitoring, year 2 runs from October 1, 2001 to September 30, 2002; year 4 runs from October 1, 2003 to September 30, 2004.

EPA acknowledges that, considering the small number of samples required per monitoring year (four), and the vagaries of storm water discharges, it may be difficult to determine or confirm the existence of a discharge problem as a commenter claimed. When viewed as an indicator, analytic levels considerably above benchmark values can serve as a flag to the operator that his SWPPP needs to be reevaluated and that pollutant loads may need to be reduced. Conversely, analytic levels below or near benchmarks can confirm to the operator that his SWPPP is doing its intended job. EPA believes there is presently no alternative that provides stakeholders with an equivalent indicator of program effectiveness.

Commenters also had concerns that only four samples and variability in conditions severely reduce the utility of monitoring results for judging BMP effectiveness. While not practicable for EPA to require an increase in monitoring, operators are encouraged to sample more frequently to improve the statistical validity of their results. Unless the proper data acquisition protocol for making a valid BMP effectiveness determination is rigorously followed, any other method used to assess BMP effectiveness would be qualitative, and therefore less reliable. The least subjective approach, and most beneficial to operators and stakeholders, EPA believes, remains a combination of visual and analytic monitoring, using analyte benchmark levels to target potential problems. Statistical uncertainties inherent in the monitoring results will necessitate both operators and EPA exercising best professional judgement in interpreting the results. As stated above, when viewed as an indicator, analytic levels considerably above benchmark values can serve as a flag to the operator that his SWPPP needs to be reevaluated and that pollutant loads may need to be reduced. Conversely, analytic levels below or near benchmarks can confirm to the operator that his SWPPP is doing its intended job.

Commenters had additional concerns regarding impacts of storm water on water quality standards and that monitoring has marginal value in assessing and protecting water quality. In the absence of establishing discharge pollutant levels that correlate directly to water quality standards, as would be done for an individual permit, EPA settled on benchmark levels which would, under nearly all scenarios, be protective of water quality standards. Recognizing the shortcomings of these generic pollutant levels, EPA only intends for them to be used as indicators of possible problems and as a flag to reevaluate the SWPPP and possibly the operation of the facility—not as a trigger to begin mandatory SWPPP or operational revisions (unless, after employing BPJ, the operator deems such revisions are necessary).

Monitoring results also serve as an oversight tool for EPA to prioritize sites which may benefit from a site inspection. A requirement to submit test results serves as an incentive for the facility operator to perform the monitoring and take any necessary action based on the results.

Some commenters felt the validity of benchmark values need to be reevaluated. Universal WQ-based discharge levels for storm water cannot be established; the next best thing would be to determine water segment-specific total maximum daily loads (TMDLs) for these discharges. But when benchmarks are employed merely as indicators, without requiring specific corrective actions beyond using best professional judgement to reassess present conditions and make any changes deemed necessary, the present benchmarks are adequate. In many cases operators can, upon receipt of analytic monitoring results above benchmarks, still conclude their present SWPPPs/BMPs are adequately protective of water quality, or that other situations such as discharging to low-quality, ephemeral streams may obviate the need for SWPPP/BMP revisions.

The fact that storm water discharge pollutant levels could be affected by atmospheric/dry deposition, run on and fate in transport, as well as structural sources, was a concern of a few commenters. EPA acknowledges the potential for adding pollutants to a facility's discharges from external or structural sources. Permittees are, nonetheless, still legally responsible for the quality of all discharges from their sites (or any runoff that comes into contact with their structures, industrial activities or materials, regardless of where these are located)—but not from pollutants that may be introduced into their discharges outside the boundaries of their properties. Pollutant levels, whether elevated from air deposition, run-on from nearby sites, or leachate from on-site structures, remain the responsibility of permittees. This was affirmed in the ruling by the Environmental Appeals Board against the General Motors Corporation CPC-Pontiac Fiero Plant in December 1997.

a. *Other Monitoring Options:* There were various comments for and against various alternatives to quarterly analytic monitoring submitted. The other non-analytic monitoring options are summarized in the following paragraphs, along with EPA responses.

b. *Visual Monitoring:* Numerous commenters supported dropping analytic monitoring from the MSGP–

2000 in favor of just requiring quarterly visual monitoring. Commenters claimed visual monitoring is adequate to ensure compliance and environmental protection (especially coupled with training), and is least burdensome.

Quarterly visual monitoring of storm water discharges has always been a permit requirement, for many of the same reasons why commenters favor it, and will continue to be so. EPA will also be retaining analytic monitoring because we believe the best way to ensure SWPPP effectiveness and protection of water quality is through a combination of visual and analytic monitoring. The reasons for not adopting visual monitoring only are explained further in the rationale for justifying quarterly analytic monitoring.

c. *Annual Reporting:* One option suggested by commenters was for an annual report, possibly using a standardized form, to be submitted to EPA detailing the permittee's SWPPP highlights and revisions/additions, inspections, compliance evaluations, visual monitoring results, etc. This information is already required to be documented in a facility's SWPPP, which, if deemed necessary, must be provided to EPA on demand. One comment against this option stated that the volume of data submitted would be too great for the Agency to evaluate. Other opponents to this option indicated that the reports would not contain enough information to evaluate SWPPP effectiveness, ensure water quality protection, or provide the information necessary to make long-term management plans. Commenters in support of the annual report concept held that it would provide a record of the permittee's commitment to storm water control, was better for evaluating SWPPP effectiveness, and would provide information to EPA to determine if sampling or a site inspection is needed.

If no monitoring data were available, an annual report could be used to ensure that a facility is implementing its SWPPP. The reports could also be used to prioritize sites for inspection. However, EPA agrees that it would be very burdensome to review all the reports and very difficult to assess the effectiveness of a facility's SWPPP based on that review alone. The subjectivity inherent in annual reporting makes it a undesirable substitute for analytic monitoring. Documenting the kind of information in the annual report is already a SWPPP requirement, and is therefore available to operators for assessing and improving their storm water programs. For these reasons, EPA will not require reports containing essentially the same information required in SWPPPs to be submitted in lieu of analytic monitoring.

d. *Group Monitoring:* Commenters also suggested group monitoring. In this option a consortium of like permittees would do sampling at one facility, possibly on a rotating basis. The sample results would represent all the facilities in the consortium. A variation of group monitoring is for the consortium to retain a consultant to do representative sampling and provide storm water program guidance and evaluations. Supporters of this concept said it may allow for comparisons of effectiveness of different SWPPP practices (e.g., sweeping vs. catchment basin for solids control). One commenter pointed out that the feasibility of the group concept is suspect due to the fact that individual facilities may have different topography, soil and other natural conditions. EPA believes that technically valid BMP comparisons could be done under this type of program. However, it would be difficult and very resource-intensive for EPA to establish criteria for group eligibility and then monitor to ensure that groups met these criteria.

e. *Watershed Monitoring:* This option involves replacing the monitoring of discrete storm water discharges with ambient receiving water monitoring on a watershed basis. Watershed monitoring is invaluable to making real conclusions regarding storm water impacts of water quality, and will be employed in making total maximum daily load (TMDL). However, watershed monitoring cannot replace facility-specific storm water discharge monitoring to determine the loads contributed by the facilities and to evaluate the effectiveness of the SWPPP.

f. *Monitoring Only in Impaired Waters:* Several commenters supported requiring monitoring only in impaired water bodies and for pollutants that cause the impairment. Although this option would focus attention on the problem water bodies and possible pollutant sources, EPA and a commenter point out that not all impaired water bodies and their impairments have been determined. The goal of EPA's storm water program is also to protect and maintain water quality, not just remediate impaired waters, so focusing on impaired waters only does not fulfill all the program's responsibilities.

2. Compliance Monitoring

Today's final MSGP retains the same compliance monitoring requirements as the 1995 MSGP, and also includes compliance monitoring requirements for certain storm water discharges from new and existing hazardous and non-hazardous landfills. As noted earlier, EPA has recently finalized effluent limitations guidelines for these landfills (65 FR 3007, January 19, 2000) and the compliance monitoring is required to ensure compliance with the guidelines. These discharges must generally be sampled annually (in some cases quarterly) and tested for the parameters which are limited by the permit. Discharges subject to compliance monitoring include (in addition to the landfills discharges): coal pile runoff, contaminated runoff from phosphate fertilizer manufacturing facilities, runoff from asphalt paving and roofing emulsion production areas, material storage pile runoff from cement manufacturing facilities, and mine dewatering discharges from crushed stone, construction sand and gravel, and industrial sand mines located in EPA Regions 1, 2, 3, 6, 8, 9, 10. All samples are to be grabs taken within the first 30 minutes of discharge where practicable, but in no case later than the first hour of discharge. Where practicable, the samples shall be taken from the discharges subject to the numeric effluent limitations prior to mixing with other discharges.

Monitoring for these discharges is required to determine compliance with numeric effluent limitations. Discharges covered under today's final MSGP which are subject to numeric effluent limitations are not eligible for the alternative certification described in Section VI.E.3 of this fact sheet.

Where a State or Tribe has imposed a numeric effluent limitation as a condition for certification under CWA § 401, a default minimum monitoring frequency of once per year has been included in the final permit. This default monitoring frequency would only apply if a State failed to provided a monitoring frequency along with their conditional § 401 certification.

3. Alternate Certification

Today's final MSGP retains the provision in the 1995 MSGP for an alternative certification in lieu of analytical monitoring. The MSGP includes monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative certification described below is included in the permit to ensure that monitoring requirements are only imposed on those facilities which do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if there are no sources of a pollutant

exposed to storm water at the site then the potential for that pollutant to contaminate storm water discharges does not warrant monitoring.

A discharger is not subject to the analytical monitoring requirements provided the discharger makes a certification for a given outfall, on a pollutant-by-pollutant basis, that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the SWPPP, and submitted to EPA in lieu of monitoring reports required under Part 7 of the permit. The permittee is required to complete any and all sampling until the exposure is eliminated. If the facility is reporting for a partial year, the permittee must specify the date exposure was eliminated. If the permittee is certifying that a pollutant was present for part of the reporting period, nothing relieves the permittee from the responsibility to sample that parameter up until the exposure was eliminated and it was determined that no significant materials remained. This certification is not to be confused with the low concentration sampling waiver. The test for the application of this certification is whether the pollutant is exposed, or can be expected to be present in the storm water discharge. If the facility does not and has not used a parameter, or if exposure is eliminated and no significant materials remain, then the facility can exercise this certification.

As noted above, the MSGP does not allow facilities with discharges subject to numeric effluent limitations guidelines to submit alternative certification in lieu of compliance monitoring requirements. The permit also does not allow air transportation facilities or hard rock mines subject to the analytical monitoring requirements in Part 6 of the final MSGP to exercise an alternative certification.

A facility is not precluded from exercising the alternative certification in lieu of analytical monitoring requirements in the second or fourth year of the reissued MSGP, even if that facility has failed to qualify for a low concentration waiver thus far. EPA encourages facilities to eliminate exposure of industrial activities and significant materials where practicable.

4. Reporting and Retention Requirements

Like the 1995 MSGP, today's final MSGP requires that permittees submit all analytical monitoring results obtained during the second and fourth year of permit coverage. As noted earlier, year 2 runs from October 1, 2001 to September 30, 2002; year 4 runs from October 1, 2003 to September 30, 2004. Monitoring results must be submitted by January 28, 2003 for year 2 monitoring and January 28, 2005 for year 4 monitoring.

For each outfall, one Discharge Monitoring Report (DMR) form must be submitted per storm event sampled. For facilities conducting monitoring beyond the minimum requirements, an additional DMR form must be filed for each analysis. The permittee must include a measurement or estimate of the total precipitation, volume of runoff, and peak flow rate of runoff for each storm event sampled. Permittees subject to compliance monitoring requirements are required to submit all compliance monitoring results annually by October 28 following each annual sampling period (which run from October 1 of each year to September 30 of the following year). Compliance monitoring results must be submitted on signed DMR forms. For each outfall, one DMR form must be submitted for each storm event sampled.

Permittees are not required to submit records of the visual examinations of storm water discharges unless specifically asked to do so by the Director. Records of the visual examinations must be maintained at the facility. Records of visual examination of storm water discharge need not be lengthy. Permittees may prepare typed or hand written reports using forms or tables which they may develop for their facility. The report need only document: the date and time of the examination; the name of the individual making the examination; and any observations of color, odor, clarity, floating solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution.

The address for submission of DMR forms for today's final MSGP is as follows: MSGP DMR (4203), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Under the 1995 MSGP, DMRs had been sent to the EPA Regional Offices. However, to facilitate review of all DMRs from facilities operating under the MSGP, the final MSGP requires that they be sent to the one location specified above.

Today's final MSGP also retains the requirement in the 1995 MSGP that permittees submit signed copies of DMRs to the operator of a large or medium MS4 (those which serve a population of 100,000 or more), if there are discharges of storm water associated with industrial activity through the MS4.

The location for submission of all reports (other than DMRs) for today's final MSGP remains the EPA Regional Offices as found in Part 8.3 of the final permit. Consistent with Office of Management and Budget Circular A–105, facilities located on the following Federal Indian Reservations, which cross EPA Regional boundaries, should note that permitting authority for such lands is consolidated in one single EPA Region.

a. Duck Valley Reservations lands, located in Regions 9 and 10, are handled by Region 9.

b. Fort McDermitt Reservation lands, located in Regions 9 and 10, are handled by Region 9.

c. Goshute Reservation lands, located in Regions 8 and 9, are handled by Region 9.

d. Navajo Reservation lands, located in Regions 6, 8, and 9, are handled by Region 9.

e. Ute Mountain Reservation lands, located in Regions 6 and 8, are handled Region 8.

Pursuant to the requirements of 40 CFR 122.41(j), today's MSGP (like the 1995 MSGP) requires permittees to retain all records for a minimum of three years from the date of the sampling, examination, or other activity that generated the data.

5. Sample Type

Today's final MSGP retains the same requirements regarding the type of sampling as the 1995 MSGP. A general description is provided below. Certain industries have different requirements. Permittees should check the industry-specific requirements in Part 6 of the final permit to confirm these requirements. Grab samples may be used for all monitoring unless otherwise stated. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval may be waived by the permittee where the preceding measurable storm event did not result in a measurable discharge from the facility. The 72-hour requirement may also be waived by the permittee where the permittee

documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample must be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger must submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. A minimum of one grab is required. Where the discharge to be sampled contains both storm water and non-storm water, the facility shall sample the storm water component of the discharge at a point upstream of the location where the non-storm water mixes with the storm water, if practicable.

6. Representative Discharge

Today's MSGP retains the same provision as the 1995 MSGP regarding substantially identical outfalls which allows a facility to reduce its overall monitoring burden. This representative discharge provision provides facilities with multiple storm water outfalls, a means for reducing the number of outfalls that must be sampled and analyzed. This may result in a substantial reduction of the resources required for a facility to comply with analytical monitoring requirements. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one such outfall and report that the quantitative data also apply to the substantially identical outfalls provided that the permittee includes in the SWPPP a description of the location of the outfalls and detailed explanation why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (*e.g.*, low (under 40 percent), medium (40 to 65 percent) or high (above 65 percent)) shall be provided in the plan. Facilities that select and sample a representative discharge are prohibited from changing the selected discharge in future monitoring periods unless the selected discharge ceases to be representative or is eliminated. Permittees do not need EPA approval to claim discharges are representative, provided they have documented their rationale within the SWPPP. However, the Director may determine the discharges are not representative and require sampling of all non-identical outfalls.

The representative discharge provision in the permit is available to almost all facilities subject to the analytical monitoring requirements (not including compliance monitoring for effluent guideline limit compliance purposes) and to facilities subject to visual examination requirements.

The representative discharge provisions described above are consistent with Section 5.2 of NPDES Storm Water Sampling Guidance Document (EPA 833–B–92–001, July 1992).

7. Sampling Waiver

Today's final MSGP retains the same provisions for sampling waivers (as discussed below) which are found in the 1995 MSGP:

a. Adverse Weather Conditions. Today's final MSGP allows for temporary waivers from sampling based on adverse climatic conditions. This temporary sampling waiver is only intended to apply to insurmountable weather conditions such as drought or dangerous conditions such as lightning, flash flooding, or hurricanes. These events tend to be isolated incidents and should not be used as an excuse for not conducting sampling under more favorable conditions associated with other storm events. The sampling waiver is not intended to apply to difficult logistical conditions, such as remote facilities with few employees or discharge locations which are difficult to access. When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next sampling period as well as a sample for the routine monitoring required in that period. Both samples should be analyzed separately and the results of that analysis submitted to EPA. Permittees are not required to obtain advance approval for sampling waivers.

b. *Unstaffed and Inactive Sites—Chemical Sampling Waiver.* Today's final MSGP allows for a waiver from sampling for facilities that are both inactive and unstaffed. This waiver is only intended to apply to these facilities where lack of personnel and locational impediments hinder the ability to conduct sampling (i.e., the ability to meet the time and representative rainfall sampling specifications). This waiver is not intended to apply to remote facilities that are active and staffed, or to facilities with just difficult logistical conditions. When a discharger is unable to collect samples as specified in this permit, the discharger shall certify to the Director in the DMR that the facility is unstaffed and inactive and the ability to conduct samples within the specifications is not possible. Permittees are not required to obtain advance approval for this waiver.

c. *Unstaffed and Inactive Sites—Visual Monitoring Waiver.* Today's final MSGP allows for a waiver from sampling for facilities that are both inactive and unstaffed. This waiver is only intended to apply to these facilities where lack of personnel and locational impediments hinder the ability to conduct visual examinations (i.e., the ability to meet the time and representative rainfall sampling specifications). This monitoring waiver is not intended to apply to remote facilities that are active and staffed, or to facilities with just difficult logistical conditions. When a discharger is unable to perform visual examinations as specified in this permit, the discharger shall maintain on site with the pollution prevention plan a certification stating that the facility is unstaffed and inactive and the ability to perform visual examinations within the specifications is not possible. Permittees are not required to obtain advance approval for visual examination waivers.

8. Quarterly Visual Examination of Storm Water Quality

Today's final MSGP retains the requirements of the 1995 MSGP for quarterly visual examinations of storm water discharges which EPA continues to believe provide a useful and inexpensive means for permittees to evaluate the effectiveness of their SWPPPs (with immediate feedback) and make any necessary modifications to address the results of the visual examinations. All sectors of today's final MSGP are required to conduct these examinations. In the 1995 MSGP all sectors except Sector S (which covers air transportation) were required to conduct the examinations.

Basically, the MSGP requires that grab samples of storm water discharges be taken and examined visually for the presence of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen or other obvious indicators of storm water pollution. The grab samples must be taken within the first 30 minutes after storm water discharges begin, or as soon as practicable, but not longer than 1 hour after discharges begin. The sampling must be conducted quarterly during the

following time periods: January–March, April–June, July–September and October–December of each year. The reports summarizing these quarterly visual storm water examinations must be maintained on-site with the SWPPP.

The examination of the sample must be made in well lit areas. The visual examination is not required if there is insufficient rainfall or snow-melt to run off or if hazardous conditions prevent sampling. Whenever practicable the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible in recording observations.

When conducting a storm water visual examination, the pollution prevention team, or team member, should attempt to relate the results of the examination to potential sources of storm water contamination on the site. For example, if the visual examination reveals an oil sheen, the facility personnel (preferably members of the pollution prevention team) should conduct an inspection of the area of the site draining to the examined discharge to look for obvious sources of spilled oil, leaks, etc. If a source can be located, then this information allows the facility operator to immediately conduct a clean-up of the pollutant source, and/or to design a change to the SWPPP to eliminate or minimize the contaminant source from occurring in the future.

Other examples include: if the visual examination results in an observation of floating solids, the personnel should carefully examine the solids to see if they are raw materials, waste materials or other known products stored or used at the site. If an unusual color or odor is sensed, the personnel should attempt to compare the color or odor to the colors or odors of known chemicals and other materials used at the facility. If the examination reveals a large amount of settled solids, the personnel may check for unpaved, unstabilized areas or areas of erosion. If the examination results in a cloudy sample that is very slow to settle out, the personnel should evaluate the site draining to the discharge point for fine particulate material, such as dust, ash, or other pulverized, ground, or powdered chemicals.

To be most effective, the personnel conducting the visual examination should be fully knowledgeable about the SWPPP, the sources of contaminants on the site, the industrial activities conducted exposed to storm water and the day to day operations that may cause unexpected pollutant releases.

If the visual examination results in a clean and clear sample of the storm water discharge, this may indicate that no pollutants are present. This would be an indication of a high quality result. However, the visual examination will not provide information about dissolved contamination. If the facility is in a sector or subsector required to conduct analytical (chemical) monitoring, the results of the chemical monitoring, if conducted on the same sample, would help to identify the presence of any dissolved pollutants and the ultimate effectiveness of the Storm Water Pollution Prevention Plan. If the facility is not required to conduct analytical monitoring, it may do so if it chooses to confirm the cleanliness of the sample.

While conducting the visual examinations, personnel should constantly be attempting to relate any contamination that is observed in the samples to the sources of pollutants on site. When contamination is observed, the personnel should be evaluating whether or not additional BMPs should be implemented in the SWPPP to address the observed contaminant and, if BMPs have already been implemented, evaluating whether or not these are working correctly or need maintenance. Permittees may also conduct more frequent visual examinations than the minimum quarterly requirement, if they so choose. By doing so, they may improve their ability to ascertain the effectiveness of their plan. Using this guidance, and employing a strong knowledge of the facility operations, EPA believes that permittees should be able to maximize the effectiveness of their storm water pollution prevention efforts through conducting visual examinations which give direct, frequent feedback to the facility operator or pollution prevention team on the quality of the storm water discharge.

EPA believes that this quick and simple assessment will help the permittee to determine the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. EPA recommends that the visual examination be conducted at different times than the chemical monitoring, but is not requiring this. In addition, more frequent visual examinations can be conducted if the permittee so chooses. In this way, better assessments of the effectiveness of the Storm Water Pollution Prevention Plan can be achieved. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or followup procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the site's storm water problems and the effects of the management practices that are included in the plan.

F. Regional Offices

1. Notice of Intent Address

Notices of Intent to be authorized to discharge under the MSGP should be sent to: Storm Water Notice of Intent (4203), USEPA, 401 M Street, SW., Washington, DC 20460.

2. EPA Regional Office Addresses and Contacts

For further information, please call the appropriate EPA Regional storm water contacts listed below:

- ME, MA, NH, Indian country in CT, MA, ME, RI, and Federal Facilities in VT

EPA Region 1, Office of Ecosystem Protection, JFK Federal Building (CMU), Boston, MA 02203, Contact: Thelma Murphy (617) 918–1615.

- PR

U.S. EPA, Region 2, Caribbean Environmental Protection Division, Centro Europa Building, 1492 Ponce de Leon Avenue, Suite 417, San Juan, Puerto Rico 00907–4127, Contact: Sergio Bosques (787) 729–6951.

- DC and Federal Facilities in DE

EPA Region 3, Water Protection Division, (3WP13), Storm Water Staff, 841 Chestnut Building, Philadelphia, PA 19107, Contact: Cheryl Atkinson (215) 814–3392.

- Indian country in FL

EPA Region 4, Water Management Division, Surface Water Permits Section (SWPFB), 61 Forsyth Street, SW, Atlanta, GA 30303–3104, Contact: Floyd Wellborn (404) 562–9296.

• NM; Indian country in LA, OK, TX and NM (Except Navajo and Ute Mountain Reservation Lands); oil and gas exploration and production related industries, and pipeline operations in OK (which under State law are regulated by the Oklahoma Corporation Commission and not the Oklahoma Department of Environmental Quality); and oil and gas sites in TX.

EPA Region 6, NPDES Permits Section (6WQ-PP), 1445 Ross Avenue, Dallas, TX 75202–2733, Contact: Brent Larsen (214) 665–7523.

• Federal facilities in the State of Colorado; Indian country in CO, ND, SD, WY and UT (except Goshute and Navajo Reservation lands); Ute Mountain Reservation lands in CO and NM ; and Pine Ridge Reservation lands in SD and NE.

EPA Region 8, Ecosystems Pr.otection Program (8EPR–EP), 999 18th Street, Suite 300, Denver, CO 80202–2466 Contact: Vern Berry (303) 312–6234.

• AZ, American Samoa, Commonwealth of Northern Mariana Islands, Johnston Atoll, Guam, Midway Island and Wake Island; all Indian country in AZ, CA, and NV; those portions of the Duck Valley, Fort McDermitt and Goshute Reservations that are outside NV; those portions of the Navajo Reservation that are outside AZ.

EPA Region 9, Water Management Division, (WTR–5), Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105, Contact: Eugene Bromley (415) 744–1906.

• ID; Indian country in AK, ID (except the Duck Valley Reservation), OR (except the Fort McDermitt Reservation), and WA; and Federal facilities in WA

EPA Region 10, Office of Water (OW–130), Storm Water Staff, 1200 Sixth Avenue, Seattle, WA 98101, Contact: Misha Vakoc (206) 553–6650 (toll-free in Region 10 states: 800–424–4372, extension 6650).

VII. Cost Estimates for Common Permit Requirements

Cost estimates for the MSGP were included with the final fact sheet accompanying the issuance of the MSGP on September 29, 1995 and are not being repeated here. However, additional costs for facilities seeking coverage under the reissued MSGP should be minor since the new MSGP includes few changes from the 1995 MSGP.

VIII. Special Requirements for Discharges Associated With Specific Industrial Activities

Section VIII of the fact sheet accompanying the 1995 MSGP included a detailed description of the industrial sectors covered by the permit, sources of pollutants from the different types of industries, available industry-specific BMPs, and a description of the industrial-specific permit requirements. As noted previously, EPA is not repeating all this information due to its considerable length. Table 1 in Section IV of this fact sheet listed the industrial sectors and subsectors covered by today's final MSGP. For today's MSGP, EPA reviewed the various sectors and subsectors to determine whether additional BMP opportunities have been identified subsequent to the issuance of the 1995 MSGP which would be appropriate to include in the reissued MSGP.

To update the various sectors and subsectors, EPA reviewed a variety of sources of information. As noted in Section VI.C of this fact sheet, pollution prevention is the cornerstone of the NPDES storm water permit program and, as such, EPA focused on new pollution prevention opportunities in updating the sectors. EPA has several ongoing programs directed toward identifying additional pollution prevention opportunities for different industrial sectors. One example is the ''sector notebooks'' which EPA's Office of Compliance has published covering 28 different industries, including many of those covered by the MSGP. EPA's Design for the Environment Program and Common Sense Initiative are additional examples. States, municipalities, industry trade associations and individual companies have also been active in recent years in trying to identify additional pollution prevention opportunities for different types of industries.

In reviewing the new information, however, EPA has identified only a few sectors where there appear to be additional storm water BMPs which would be appropriate for the reissued MSGP. For many industries, while considerable work has been conducted to reduce the environmental effects of these industries, little of the work has focused specifically on storm water. Rather, the efforts have focused more in areas such as manufacturing process changes to reduce hazardous waste generation or to reduce pollutant discharges in process wastewater. Where additional storm water BMPs have been identified and incorporated into the reissued MSGP, these new requirements are discussed below by sector. In some sectors, additional language clarifying the permit requirements has been added and these changes are also discussed below.

A. Sectors C—Chemical and Allied Products Facilities

Industry-specific requirements for the manufacture of fertilizer from leather scraps (SIC 2873) was moved from Sector Z (Leather Tanning and Finishing) to Sector C. This change places the requirements for SIC 2873 in the same sector as other manufacturers of fertilizers.

B. Sector G—Metal Mining (Ore Dressing and Mining)

To clarify the applicability of the MSGP regarding construction activity at metal mining sites and to make metal mining requirements consistent with mineral mining provisions (Sector J), Sector G has been modified to indicate that earth-disturbing activities occurring in the ''exploration and construction phase'' of a mining operation must be covered under EPA's Construction General Permit (63 FR 7858, February 17, 1998) if the area disturbed is one acre or more. All mining exploration/construction operations of less than one acre must be covered under the MSGP–2000.

Today's MSGP also incorporates the MSGP modifications of August 7, 1998 (63 FR 42534) regarding storm water discharges from waste rock and overburden piles. On October 10, 1995, the National Mining Association challenged the interpretation set forth in Table G–4 of the 1995 MSGP that runoff from waste rock and overburden piles would categorically be considered mine drainage subject to effluent limitations guidelines (ELGs) at 40 CFR Part 440. The litigation was settled on August 7, 1998 with a revised interpretation by EPA of the applicability of the ELGs which is incorporated into today's MSGP. Under the revised interpretation, runoff from waste rock and overburden piles is not subject to ELGs unless it naturally drains (or is intentionally diverted) to a point source and combines with ''mine drainage'' that is otherwise subject to the ELGs.

The August 7, 1998 modification of the MSGP provided permit coverage for storm water discharges from waste rock and overburden piles which are not subject to ELGs. However, due to concerns regarding potential pollutants in the discharges, additional monitoring requirements were included in the permit to determine the pollutant concentrations in the discharges. These monitoring requirements are also

included in today's MSGP. The monitoring results which have been submitted to EPA pursuant to these requirements were also considered in determining the monitoring requirements for today's permit for this sector.

Concerns were expressed by some commenters over the use of the term ''Numeric limitation'' in the headings in the tables in Sector G in the proposed MSGP. However, since there are no actual numeric limitations in the tables, EPA believes this concern is not justified and the final MSGP has not been modified in response to these comments. In response to other comments, the revised Table G–4 from the August 7, 1998 MSGP modification has been added to the permit in Part 6.G.

In response to comments received on the proposed MSGP, the language in Part 6.G.1.6.6 of the final MSGP was modified to indicate that a permittee may test ''or evaluate'' mining-related discharges for non-storm water discharges to make today's MSGP consistent with the 1995 MSGP.

Also in response to comments, the permit language in the final MSGP which defines the reclamation phase was modified to reflect post-mining land uses other than ''pre-mining state'' which had been in the proposed MSGP. In addition, the final MSGP has been clarified to indicate that sampling waivers in Part 5.3.1 of the MSGP do apply to Sector G.

C. Sector I—Oil and Gas Extraction and Refining

In response to a comment, the title for Sector I was changed to include ''Refining'' to clarify that runoff from refineries (except runoff subject to effluent limitations guidelines) is eligible for coverage under today's MSGP.

D. Sector J—Mineral Mining and Processing

EPA has re-evaluated the provisions of the 1995 MSGP for industrial facilities in Sector J to determine whether these provisions need to be updated for the reissued MSGP. To clarify the applicability of the MSGP regarding construction activity at mineral mining sites and to make mineral mining requirements consistent with metal mining provisions (Sector G), Sector J has been modified to indicate that earth-disturbing activities occurring in the ''exploration and construction phase'' of a mining operation must be covered under EPA's Construction General Permit (63 FR 7858, February 17, 1998) if the area disturbed is one acre or more. All mining exploration/construction operations of less than one acre must be covered under the MSGP–2000.

E. Sector K—Hazardous Waste Treatment, Storage or Disposal Facilities

EPA has re-evaluated the provisions of the 1995 MSGP for industrial facilities in Sector K to determine whether these provisions need to be updated for the reissued MSGP. On January 19, 2000 (65 FR 3008), EPA promulgated final effluent limitations guidelines (ELGs) for ''contaminated storm water discharges'' from new and existing hazardous landfill facilities regulated under RCRA Subtitle C at 40 CFR Parts 264 (Subpart N) and 265 (Subpart N), except for the following ''captive'' landfills:

(a) Landfills operated in conjunction with other industrial or commercial operations when the landfill only receives wastes generated by the industrial or commercial operation directly associated with the landfill;

(b) Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes generated by the industrial or commercial operation directly associated with the landfill and also receives other wastes provided the other wastes received for disposal are generated by a facility that is subject to the same provisions in 40 CFR Subchapter N as the industrial or commercial operation or the other wastes received are of similar nature to the wastes generated by the industrial or commercial operation;

(c) Landfills operated in conjunction with Centralized Waste Treatment (CWT) facilities subject to 40 CFR Part 437 so long as the CWT facility commingles the landfill wastewater with other non-landfill wastewater for discharge. A landfill directly associated with a CWT facility is subject to this part if the CWT facility discharges landfill wastewater separately from other CWT wastewater or commingles the wastewater from its landfill only with wastewater from other landfills; or

(d) Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes from public service activities so long as the company owning the landfill does not receive a fee or other remuneration for the disposal service.

For Sector K of the new MSGP, EPA has included the new ELGs (40 CFR Part 445 Subpart A) for hazardous landfill facilities.

The term ''contaminated storm water'' is defined in the ELGs as ''storm water which comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater.'' [40 CFR 445.2]. Contaminated storm water may originate from areas at a landfill including (but not limited to): ''the open face of an active landfill with exposed waste (no cover added); the areas around wastewater treatment operations; trucks, equipment or machinery that has been in direct contact with the waste; and waste dumping areas.'' [40 CFR 445.2].

The term ''non-contaminated storm water'' is defined in the ELGs as ''storm water which does not come in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater.'' [40 CFR 445.2]. Non-contaminated storm water includes storm water which ''flows off the cap, cover, intermediate cover, daily cover, and/or final cover of the landfill.'' [40 CFR 445.2].

The term ''landfill wastewater'' is defined in the ELGs as ''all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, non-contaminated storm water, contaminated groundwater, and wastewater from recovery pumping wells. Landfill wastewater includes, but is not limited to, leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated storm water and contact washwater from washing truck, equipment, and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.''

The 1995 MSGP authorized discharges of storm water associated with industrial activity which includes contaminated storm water discharges (as defined above) as well as other non-contaminated storm water discharges (also defined above). Today's final MSGP continues to authorize storm water associated with industrial activity; however, for contaminated storm water discharges as defined above, the reissued MSGP requires compliance with the promulgated ELGs for such discharges (with monitoring once/year during each year of the term of the final MSGP). The ELGs for the new and existing hazardous landfills are found in Table K–1 below:

TABLE K–1—EFFLUENT LIMITATIONS GUIDELINES FOR CONTAMINATED STORM WATER DISCHARGES (MG/L)

Pollutant	Maximum for 1 day	Monthly average maximum
BOD5	220	56

TABLE K–1—EFFLUENT LIMITATIONS GUIDELINES FOR CONTAMINATED STORM WATER DISCHARGES (MG/L)—Continued

Pollutant	Maximum for 1 day	Monthly average maximum
TSS	88	27
Ammonia	10	4.9
Alpha Terpineol	0.042	0.019
Aniline	0.024	0.015
Benzoic Acid	0.119	0.073
Naphthalene	0.059	0.022
p-Cresol	0.024	0.015
Phenol	0.048	0.029
Pyridine	0.072	0.025
Arsenic (Total)	1.1	0.54
Chromium (Total)	1.1	0.46
Zinc (Total)	0.535	0.296
pH	Within the range of 6–9 pH units.	

Today's final MSGP (like the 1995 MSGP) does not authorize non-storm water discharges such as leachate and vehicle and equipment washwater. These and other landfill-generated wastewaters are subject to the ELGs. Today's final MSGP does, however, continue to authorize certain minor non-storm water discharges (listed in Part 1.2.2.2) which are very similar to the 1995 MSGP.

F. Sector L—Landfills, Land Application Sites and Open Dumps

EPA has re-evaluated the provisions of the 1995 MSGP for industrial facilities in Sector L to determine whether these provisions need to be updated for the reissued MSGP. The SWPPP requirements of the 1995 MSGP already include several special BMPs for this industry in addition to the MSGP's basic BMP requirements.

On January 19, 2000 (65 FR 3008), EPA promulgated final effluent limitations guidelines (ELGs) for ''contaminated storm water discharges'' from new and existing non-hazardous landfill facilities regulated under RCRA Subtitle D (40 CFR Part 445 Subpart B). For Sector L of today's MSGP, EPA has included the ELGs as they apply to facilities covered by this sector. For Sector L facilities, the ELGs apply to:

Municipal solid waste landfills regulated under RCRA Subtitle D at 40 CFR Part 258 and those landfills which are subject to the provisions of 40 CFR Part 257, except for any of the following ''captive'' landfills:

(a) Landfills operated in conjunction with other industrial or commercial operations when the landfill only receives wastes generated by the industrial or commercial operation directly associated with the landfill;

(b) Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes generated by the industrial or commercial operation directly associated with the landfill and also receives other wastes provided the other wastes received for disposal are generated by a facility that is subject to the same provisions in 40 CFR Subchapter N as the industrial or commercial operation or the other wastes received are of similar nature to the wastes generated by the industrial or commercial operation;

(c) Landfills operated in conjunction with Centralized Waste Treatment (CWT) facilities subject to 40 CFR Part 437 so long as the CWT facility commingles the landfill wastewater with other non-landfill wastewater for discharge. A landfill directly associated with a CWT facility is subject to this part if the CWT facility discharges landfill wastewater separately from other CWT wastewater or commingles the wastewater from its landfill only with wastewater from other landfills; or

(d) Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes from public service activities so long as the company owning the landfill does not receive a fee or other remuneration for the disposal service.

EPA has not modified Sector L for the discharges which are not subject to the ELGs. In addition, EPA would like to call attention to a new EPA publication entitled ''Guide for Industrial Waste Management'' (EPA 530–R–99–001, June, 1999) which provides a useful information resource for permittees in complying with the MSGP, and in minimizing the impact of landfills to the environment overall.

The term ''contaminated storm water'' is defined in the ELGs as ''storm water which comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater.'' [40 CFR 445.2]. Contaminated storm water may originate from areas at a landfill including (but not limited to): ''the open face of an active landfill with exposed waste (no cover added); the areas around wastewater treatment operations; trucks, equipment or machinery that has been in direct contact with the waste; and waste dumping areas.'' [40 CFR 445.2].

The term ''non-contaminated storm water'' is defined in the ELGs as ''storm water which does not come in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater.'' [40 CFR 445.2]. Non-contaminated storm water includes storm water which ''flows off the cap, cover, intermediate cover, daily cover, and/or final cover of the landfill.'' [40 CFR 445.2].

The term ''landfill wastewater'' is defined in the ELGs as ''all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, non-contaminated storm water, contaminated groundwater, and wastewater from recovery pumping wells. Landfill wastewater includes, but is not limited to, leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated storm water and contact washwater from washing truck, equipment, and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.'' [40 CFR 445.2].

The 1995 MSGP authorized discharges of storm water associated with industrial activity from landfills including contaminated storm water discharges as defined in the ELGs as well as non-contaminated storm water. Today's final MSGP continues to authorize storm water associated with industrial activity; however, for contaminated storm water discharges as defined above, today's MSGP requires compliance with the promulgated ELGs for such discharges (with monitoring once/year during each year of the term of the final MSGP). The ELGs are found in Table L–1 below:

TABLE L–1—EFFLUENT LIMITATIONS GUIDELINES FOR CONTAMINATED STORM WATER DISCHARGES (MG/L)

Pollutant	Maximum for 1 Day	Monthly average maximum
BOD5	140	37
TSS	88	27
Ammonia	10	4.9
Alpha Terpineol	0.033	0.016
Benzoic Acid	0.12	0.071
p-Cresol	0.025	0.014
Phenol	0.026	0.015
Zinc (Total)	0.20	0.11
pH	within the range of 6–9 pH units.	

Today's final MSGP (like the 1995 MSGP) does not authorize non-storm water discharges such as leachate and vehicle and equipment washwater. These and other landfill-generated wastewaters are subject to the ELGs. Today's MSGP does, however, continue to authorize the same minor non-storm water discharges (listed in Part 1.2.2.2) as the 1995 MSGP.

G. Sector S—Air Transportation Facilities

EPA has re-evaluated the provisions of the 1995 MSGP for industrial facilities in Sector S to determine whether these provisions need to be updated for the reissued MSGP. The SWPPP requirements of the 1995 MSGP included several special BMP requirements for airports in addition to the MSGP's basic BMP requirements. Additional technologies have been developed since the original MSGP issuance for deicing operations which have been included in today's MSGP. A lengthy (but not comprehensive) list of new deicing chemical and BMP options is provided in Parts 6.S.5.3.6.2 and 6.S.5.3.7. More information on these options is found in the EPA publication ''Preliminary Data Summary, Airport Deicing Operations'' *(http://www.epa.gov/ost/guide/airport/index.html).*

The MSGP–2000 has been clarified such that compliance evaluations (Part 6.S.5.5) shall be conducted during a period when deicing activities are likely to occur (vs. a month when deicing activities would be atypical or during an extended heat wave), not necessarily during an actual storm or when intense deicing activities are occurring. This requirement is not seen as onerous, as EPA believes that most weather conditions can be reasonably anticipated and the evaluation can be planned for.

In addition, EPA has revised Part 6.S.5.4 to reflect that monthly inspections of deicing areas during the deicing season (e.g., October through April) are now allowed at airports with highly effective, rigorously implemented SWPPPs. This requirement is a reduction from the previous MSGP's weekly requirement. However, if unusually large amounts of deicing fluids are being applied, spilled or discharged, weekly inspections should be conducted and the Director may specifically require such weekly inspections. In addition, personnel who participate in deicing activities or work in these areas should, as the need arises, inform the monthly inspectors of any conditions or incidents constituting an environmental threat, especially those needing immediate attention.

H. Sector T—Treatment Works

EPA has re-evaluated the provisions of the 1995 MSGP for industrial facilities in Sector T to determine whether these provisions need to be updated for the reissued MSGP. The SWPPP requirements of the 1995 MSGP already include a few special BMP requirements for this industry in addition to the MSGP's basic BMP requirements. In reviewing the information which EPA has available on this industry, EPA has identified several additional areas at treatment works facilities which we believe should be considered more closely for potential storm water controls. As a result, EPA has included additional or modified permit requirements which we believe are appropriate to include in Sector T.

Today's MSGP requires that operators of Sector T treatment works include the following additional areas or activities, where they are exposed to precipitation, in their SWPPP site map, summary of potential pollutant sources, and inspections: grit, screenings and other solids handling, storage or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage and/or hauled waste receiving stations. An additional BMP that permittees must consider is routing storm water into the treatment works, or covering exposed materials from these additional areas or activities.

I. Sector Y—Rubber, Miscellaneous Plastic Products and Miscellaneous Manufacturing Industries

EPA has re-evaluated the provisions of the 1995 MSGP for industrial facilities in Sector Y. The 1995 MSGP included several special BMP requirements for rubber manufacturers to control zinc in storm water discharges. However, no special BMPs beyond the MSGP's basic SWPPP requirements were included in the 1995 MSGP for manufacturers of miscellaneous plastic products or miscellaneous manufacturing industries.

EPA has several ongoing programs directed toward identifying additional pollution prevention opportunities for different industrial sectors. For example, EPA's Office of Compliance has published ''sector notebooks'' for a number of industries, including the rubber and miscellaneous plastics industry (EPA 310-R–95–016). The sector notebooks are intended to facilitate a multi-media analysis of environmental issues associated with different industries and include a review of pollution prevention opportunities for the industries. As discussed below, EPA's sector notebook for the rubber and plastic products industry identifies a number of additional BMPs (beyond those in the 1995 MSGP) which could further reduce pollutants in storm water discharges from these facilities, and which have been included in the reissued MSGP.

1. Rubber Manufacturing Facilities

Today's MSGP requires that rubber manufacturing facility permittees consider the following additional BMPs (which were selected from those in the sector notebook) for the rubber product compounding and mixing area:

(1) consider the use of chemicals which are purchased in pre-weighed, sealed polyethylene bags. The sector notebook points out that some facilities place such bags directly into the banbury mixer, thereby eliminating a formerly dusty operation which could result in pollutants in storm water discharges.

(2) consider the use of containers which can be sealed for materials which are in use; also consider ensuring an airspace between the container and the cover to minimize ''puffing'' losses when the container is opened.

(3) consider the use of automatic dispensing and weighing equipment. The sector notebook observes that such equipment minimizes the chances for chemical losses due to spills.

2. Plastic Products Manufacturing Facilities

For plastic products manufacturing facilities, today's final MSGP requires that permittees consider and include (as appropriate) specific measures in the SWPPP to minimize loss of plastic resin pellets to the environment. These measures include (at a minimum) spill minimization, prompt and thorough cleanup of spills, employee education, thorough sweeping, pellet capture and disposal precautions. Additional specific guidance on minimizing loss can be found in the EPA publication entitled ''Plastic Pellets in the Aquatic Environment: Sources and Recommendations'' (EPA 842–B–92–010, December, 1992) and at the website of the Society of the Plastics Industry (www.socplas.org).

3. Industry-Sponsored Efforts

Both the rubber manufacturing and plastic products industries are also active in sponsoring studies designed to reduce the environmental impacts associated with the production, use and ultimate disposal of their products. However, in reviewing recent work in this regard, EPA has not identified any additional BMPs for storm water discharges which would be appropriate for the reissued MSGP. Therefore, only the additional BMPs noted above are included in the reissued MSGP for these industries.

IX. Summary of Responses to Comments on the Proposed MSGP

EPA received comments from 45 individuals in response to the proposed permit. A summary of the Agency's responses to those comments appears below. Responses to each comment is available from the Water Docket, whose address and hours of operation are listed in the introduction to this notice.

Section 1.2 Eligibility

Comment a: One commenter requested clarification on the responsibilities military bases, which resemble small municipalities, have with regard to non-industrial areas of the base. The commenter expressed concern that examples of co-located industrial activities in Section VI.B.3 of the fact sheet and Part 1.2.1.1 of the proposed permit could be interpreted to require coverage for all vehicle maintenance activities at a base, even those unrelated to an industrial activity. The commenter further noted that bases in urbanized areas would require base-wide storm water management programs anyway as Small Municipal Separate Storm Sewer Systems under Phase II of the Storm Water Program.

Response a: EPA agrees that municipalities and military or other governmental installations are only responsible for obtaining permits for storm water associated with industrial activity for those portions of their municipality or installations where they have a storm water discharge that is covered under the definition of ''storm water associated with industrial activity.'' Under this interpretation, even though a military base may choose to submit a single NOI for all industrial activities on the base, the SWPPP would only need to identify facilities/areas associated or not associated with industrial activities and that have a SWPPP covering the industrial activity areas. The SWPPP required under the MSGP would not need to address storm water controls for the non-industrial areas of the base. A note has been added to Part 4.1 (Storm Water Pollution Prevention Plans) of the permit to clarify the scope of the SWPPP.

Comment b: The proposed limitations on transfer of storm water discharges from a previous permit to the MSGP could result in undue restrictions. The commenter felt that there could be reasons, e.g., for consistent management of storm water across a site, etc. that either the permittee or the permitting authority would want to address all storm water at a facility under a general permit.

Response b: EPA has reconsidered the Part 1.2.3.3.2 restrictions and Part 1.2.3.3.2.1 of the proposed permit has been eliminated. Part 1.2.3.3.2.1 would only have allowed permittees to seek MSGP coverage for storm water discharges previously covered by another permit if that previous permit contained only storm water and eligible non-storm water (i.e., an individual permit for wastewater, etc. would no longer be required if coverage under the MSGP was allowed). EPA's review did identify some unintended consequences and unresolved issues that could result from this restriction.

A facility (including new facilities) that never had storm water discharges covered by an individual permit, or which was located where access to a municipal wastewater treatment plant for wastewater discharges was available, would have an opportunity for burden reduction that would not be available to a facility with even cleaner storm water that happened to have storm water discharges covered in a previous permit and could not eliminate their wastewater discharges. There could be cases were a smaller and ''cleaner'' facility would not be able to take advantage of the savings (e.g., individual permit application sampling is not required) the MSGP offered their competitors simply because they had a minor wastewater discharge that could not be eliminated.

While the main purpose of the proposed Part 1.2.3.3.2.1 restriction was to discourage dual permits at a facility, there are already many facilities that have permit coverage split between an individual permit and the MSGP and dual permit coverage would still be available in many cases anyway. Currently, some of these ''dual permit'' facilities have only wastewater under an individual permit and all their storm water discharges under the MSGP, while at others, the individual wastewater permit includes some of the storm water discharges, with the remaining storm water discharges covered by the MSGP. This ability to have split coverage in at least some situations is necessary to address situations where at least interim coverage under a general permit for a new storm water discharge is necessary or desirable from either the permittee's or the permitting authority's standpoint.

EPA has determined that the proposed restrictions in Part 1.2.3.3.2 relating to discharges for which a water quality-based limit had been developed and discharges at a facility for which a permit had been (or was in the process of being) either denied or revoked by the permitting authority were necessary to address the anti-backsliding requirements of the Clean Water Act or to ensure that discharges from a facility requiring the additional scrutiny of an individual permit application were not inadvertently allowed under the general permit. In any event, only those storm water discharges under the previous permit that met all other eligibility conditions of the MSGP could even be considered for transfer.

EPA periodically promulgates new effluent limitation guidelines, some of which, such as the those for landfills published February 2, 2000, contain storm water effluent limitation guidelines. Under Part 1.2.2.1.3 of the MSGP, a storm water discharge subject to a promulgated effluent limitation guideline is only eligible for coverage if that guideline is listed in Table 1–2. A new guideline promulgated during the term of the permit would thus alter the eligibility for the permit not only for new dischargers, but also for discharges already covered by the permit. In order to avoid the situation where a discharge would suddenly become ineligible upon promulgation of a new guideline, Part 1.2.2.1.3 has been modified to allow interim coverage under the permit where a storm water effluent guideline has been promulgated after the effective date of the permit, but the permit has not yet been modified to include the new guideline. This will allow continued coverage until the new storm water guideline could be added to the permit. Where the new guideline includes new source performance standards, ''new sources'' would need to comply with Part 1.2.4 prior to seeking permit coverage.

Section 1.4 Terminating Coverage

Comment: (Comment also addresses Section 11.1 Transfer of Permit Coverage) Several commenters viewed the submittal of an NOT by the old operator and the submittal of an NOI by the new operator in order to transfer permit coverage after a change in ownership as a new and overly burdensome requirement (Parts 1.4 and 11.1). An alternative suggested was a simple notice to the permit file of the ownership change.

Response: EPA has determined that the most effective method for accommodating and tracking a change in the owner/operator at a facility covered by the general permit is to have the old operator submit a Notice of Termination certifying that they are no longer the operator of the facility, and for the new operator to submit a Notice of Intent certifying their desire and eligibility to be covered by the general permit. In fact, this is not a new

requirement since the same process was required under the 1995 MSGP (see Part II.A.4 and Part XI.A at 60 FR 51113 and 51122, respectively). The only ''new'' aspect of the process is the 30 day timeframe for submittal of the NOT by the old operator and a clarification that simple name changes in a particular company (e.g., Jones Industrial Manufacturing, Co. changing to JIMCO) can be made with a simple update to the company's NOI and a NOT would not be required. Submittal of the NOT by the old operator documents that the old operator believes he no longer needs coverage under the MSGP for any storm water discharges. In addition, EPA is more able to maintain a cleaner database of facilities actually covered by the permit both currently and in the past. The NOI/NOT process for transfers under the general permit is thus essentially a streamlined parallel process to what would otherwise be required under 40 CFR 122.61.

The permit transfer procedures at 40 CFR 122.61 are designed to avoid the time delays and resource burdens associated with issuance of a new permit for a facility just because there is a new owner/operator. Under this process, transfer of the permit to the new owner/operator cannot be made without an actual permit modification (a lengthy process especially for general permits), unless the old operator submits a thirty day advance notice and a written agreement between the parties containing a specific date for transfer of permit responsibility, coverage, and liability between them.

The nature of a general permit is such that there is no actual permit issued to any individual facility, but rather that multiple dischargers are in effect ''registering'' their intent to use the discharge authority offered by the general permit to anyone who is eligible. This ''registration'' is accomplished by an operator's submittal of the Notice of Intent to be covered by the general permit as little as two days before they need permit coverage. In fact, regulations at 40 CFR 122.28(b)(2) specifically require submittal of an NOI in order for an operator to be authorized under a general permit for discharges of storm water associated with industrial activity. EPA thus views the requirements for the new operator to file an NOI as little as two days prior to the transfer and for the old operator to file an NOT within thirty days after the transfer to be less burdensome than the thirty day advance notice and written agreements that would otherwise be required under the permit transfer requirements of 40 CFR 122.61.

Section 1.5 Conditional Exclusion for No Exposure

Comment: EPA should insert the No Exposure Certification form and guidance within the permit since many facility operators are unaware of its existence.

Response: EPA has generated a document, ''Guidance Manual for Conditional Exclusion from Storm Water Permitting Based on ''No Exposure'' of Industrial Activities to Storm Water,'' and a separate no exposure announcement to help operators understand and apply for the conditional permitting exclusion. The guidance is available in hard copy from EPA's Water Resource Center. In addition, EPA also sent a mass mailing alerting all EPA permittees as well as stakeholder groups to the MSGP–2000 and the no exposure exclusion. To provide the No Exposure Certification in as many possible places, EPA is publishing the form and instructions as an addendum to the MSGP–2000.

Section 2.1 Notice of Intent (NOI) Deadlines

Comment: Commenters requested an extension of the 90 day timeframe for submission of their NOI to 270 days. Commenters said they needed the additional time to complete their Storm Water Pollution Prevention Plan (SWPPP), application for an alternate permit, or their endangered species consultation or adverse impact investigation. A commenter also requested clarification of coverage during the 90 days between this publication and their submission of their NOI.

Response: The fact sheet clarifies that SWPPPs are to be prepared at the time the NOI is submitted. Since most permittees are already covered under the current MSGP and have a requirement to update their SWPPP as the need arises, there is no basis for an automatic extension to 270 days. However, facilities may seek an extension up to 270 days to develop their SWPPP, or to obtain an alternate permit, on a case-by-case basis. Similarly, facilities can request an extension up to 270 days if they need to conduct an endangered species consultation or adverse impact investigation. Permittees covered under the current MSGP will continue to be covered during the next 90 days as long as they meet the conditions set forth in the 1995 MSGP.

Section 2.2 Contents of Notice of Intent (NOI)

Comment a: Clarify how to complete the NOI form in situations where an MS4 has industrial activities and is conveying the pollutants to its own storm drainage system.

Response a: The intent of Section 2.2.2.5 was to identify the municipal separate storm sewer system under the assumption that it would be under different ownership. If there is not a separate owner, this requirement is unnecessary. This section has been revised to clarify ''the name of the municipal operator if the discharge is through a municipal separate storm sewer system under separate ownership.''

Comment b: A commenter questioned whether EPA was requiring or encouraging permittees to consult FWS and NMFS in making its endangered species finding.

Response b: The facility is responsible for obtaining the threatened or endangered species list to make sure that listed specie or critical habitat is not located in or around the vicinity of your facility. That list may be obtained by phoning or mailing the FWS or NMFS, visiting EPA's website, or by some other means. Thus, the permittee is not required to contact the two agencies if he can meet his obligation in another manner.

Comment c: Do not include latitude/longitude information on the NOI.

Response c: EPA requires all regulated facilities to submit latitude and longitude information. The information is critical in overseeing compliance with endangered species assessments and coordinating compliance assistance and enforcement activities across media programs.

Section 2.3 Use of NOI Form

Comment a: Do not add check boxes related to NHPA and ESA compliance.

Response a: EPA believes the additional information improves the Agency's ability to oversee implementation of the permit and compliance with ESA and NHPA requirements. Because the permittee is already responsible for conducting the analysis, there is minimal additional burden associated with indicating on the NOI form how the analysis was conducted. Therefore, EPA intends to retain this requirement. The NOI form requires review by the Office of Management and Budget. Until the new form is approved, permittees should use the current form. EPA's ability to issue today's permit is contingent upon its compliance with ESA and NHPA; thus, provisions related to those statutes is part and parcel of today's permitting action.

Comment b: Commenters supported EPA's proposal to allow facilities to

submit NOIs, notices of termination, and discharge monitoring reports electronically. However, they cautioned that EPA continue to allow hard copy filing since not all permittees have internet access.

Response b: The final permit retains the requirement of paper filing for NOIs, NOTs, and DMRs. While EPA believes that electronic filing will be incorporated as an option in the future, it is currently not available.

Section 3.3 Compliance with Water Quality Standards

NPDES regulations at 40 CFR 122.44(d)(1)(i) require that the MSGP ensure compliance with State water quality standards for all discharges which ''will cause, have the reasonable potential to cause, or contribute'' to an exceedance of a State standard. With the wide variety of facilities to be permitted under the MSGP, EPA believes that reasonable potential to cause or contribute to exceedances of water quality standards is likely to exist at least for some facilities. Therefore the MSGP must include appropriate provisions to ensure compliance with State standards. For general permits, EPA's guidance document entitled ''General Permit Program Guidance'' (February, 1988) suggests an overall narrative statement requiring compliance with State standards to address the fact that the permit will cover a wide variety of facilities subject to different standards depending on their location. Part 3.3 of the proposed MSGP included a narrative statement in accordance with this guidance to ensure compliance with 40 CFR 122.44(d)(1)(i). Part 1.2.3.5 of the proposed MSGP also included an exclusion from permit coverage for facilities which EPA has determined may cause or contribute to violations of State standards. Commenters raised a number of concerns regarding the provisions of the proposed MSGP related to compliance with State standards. However, after review of the comments, EPA believes that the provisions of the proposed MSGP were appropriate and these provisions have been retained in the final MSGP. Following below are EPA responses to the specific issues raised by the commenters:

Lack of Coverage for Facilities With Reasonable Potential

Comment a: A commenter was puzzled by the exclusion from coverage in Part 1.2.3.5 of the proposed MSGP and requested additional explanation.

Response a: EPA believes that facilities which are shown to cause, or have the reasonable potential to cause or contribute to exceedances of State standards may be more appropriately permitted under individual permits or a separate general permit with alternate permit requirements designed to ensure compliance with State standards. This is the basis for the exclusion. Part 1.2.3.5 also provides, however, that MSGP coverage may be available if the control measures in the storm water pollution prevention plan (SWPPP) are sufficient to ensure compliance with State standards.

Comment b: Part 1.2.3.5 of the proposed MSGP could prove burdensome and could lead to permit backlogs depending on the extent of its use.

Response b: Given the large number of facilities covered by the MSGP, it is not practical for EPA to individually review the status of all facilities covered by the MSGP prior to submittal of the NOI. EPA has developed eligibility criteria for coverage under the MSGP–2000 which should, if applied appropriately by the facility operator, screen out facilities which have ''reasonable potential'' to exceed a state standard. In addition, where EPA determines there is a ''reasonable potential,'' the Director will require the facility to submit an individual permit or take other appropriate action.

Comment c: MSGP coverage should not be allowed until the absence of reasonable potential had been demonstrated by the discharger.

Response c: As noted above, EPA does not believe this is practical for all facilities given the large number of dischargers covered by the permit. Moreover, as discussed in EPA's ''Interim Permitting Policy for Water Quality-Based Effluent Limitations in Storm Water Permits'' (61 FR 43761, November 26, 1996), there will likely be circumstances where inadequate information is available to perform the reasonable potential analysis.

Are Discharges with Reasonable Potential a Permit Violation?

Comment d: Several commenters objected to Part 3.3 of the proposed MSGP which indicated that discharges which have occurred would be violations of the MSGP if they are later shown to have the reasonable potential to cause or contribute to exceedances of State standards.

Response d: EPA believes that such discharges are appropriately characterized by the MSGP as violations. The narrative statement in the MSGP requiring compliance with water quality standards in effect incorporates into the permit all numeric effluent limitations which are necessary to ensure compliance with State standards. When a discharge is shown to have reasonable potential, this implies that discharges are occurring which would exceed the permit limits needed to ensure compliance with State standards. Since the narrative statement incorporates all limits needed to ensure compliance with State standards, the discharges are appropriately characterized as violations of the permit.

Process for Terminating Coverage Under the MSGP

Comment e: Several commenters expressed concern regarding the process for terminating coverage under the MSGP and ensuring due process for dischargers to contest such actions by EPA.

Response e: EPA believes that the MSGP does ensure due process for dischargers. Part 9.12 of the MSGP provides that EPA may require an individual permit application from a discharger, or require the discharger to seek coverage under an alternate general permit. If an individual permit application were required, a draft permit would be prepared and a full opportunity would be provided to the discharger in accordance with 40 CFR Part 124 to comment on the draft permit and contest any final determination. Further, any alternate general permit would provide (in accordance with 40 CFR 122.28(b)(3)(iii)) that the discharger could seek coverage under an individual permit rather than the alternate general permit. Such a request would also be processed in accordance with the procedures at 40 CFR Part 124.

Comment f: A number of commenters also asked whether a notice of violation of Part 3.3 of the MSGP for violations of State water quality standards would be in writing.

Response f: Dischargers would be notified in writing by EPA of any violation of Part 3.3.

Permit as a Shield Concerns

Comment g: Section 402(k) of the Clean Water Act shields permittees from the requirements of Part 3.3 of the MSGP to comply with water quality standards.

Response g: EPA disagrees with the commenters on this matter. Section 402(k) provides that compliance with an NPDES permit is considered to be compliance, for purposes of section 309 and 505 enforcement, with sections 301, 302, 306, 307 and 403 of the Clean Water Act. However, the violations which are envisioned by Part 3.3 of the MSGP would be violations of an NPDES permit itself, *i.e.*, the water quality-based effluent limitations which are

incorporated into the MSGP by virtue of the narrative statement. Section 402(k) does not provide a shield for such violations.

Concerns about Applying State Water Quality Standards to Storm Water

Comment h: Water quality standards cannot apply to storm water discharges since special wet weather standards have not been developed to address episodic events.

Response h: EPA disagrees that State water quality standards cannot apply in the absence of special wet weather standards. Section 402(p)(3)(A) of the Clean Water Act specifically requires that industrial storm water dischargers comply with State water quality standards. EPA has recognized, however, the difficulties in developing appropriate water quality-based effluent limitations for storm water discharges. In response to concerns such as those raised by the commenter, EPA has developed an ''Interim Permitting Policy for Water Quality-Based Effluent Limitations in Storm Water Permits' (61 FR 43761, November 26, 1996). Where numeric water quality-based effluent limitations are infeasible (due for example to inadequate information on which to base the limitations), best management practices (BMPs) such as those in the SWPPP would serve as the water quality-based effluent limitations.

Comment i: Clarify whether mixing zones would apply to the storm water discharges.

Response i: Mixing zones would apply to the extent that State water quality standards provide for their use.

Required Actions if Violations of Standards Occur

Comment j: A commenter was unclear concerning the modifications of the SWPPP that would be required by Part 3.3 of the MSGP if violations of State water quality standards occur.

Response j: The SWPPP must be modified to include additional BMPs to the extent necessary to prevent future violations.

Comment k: Clarify who would determine the additional control measures that would be required by Part 3.3 of the MSGP.

Response k: The discharger would at least initially be responsible for determining the additional control measures. However, Part 4.10 of the MSGP also provides that EPA may require modifications of the SWPPP if it proves to be inadequate.

Can a Reasonable Potential Analysis Occur at Any Time During the Permit Term?

Comment l: Part 3.3 of the MSGP should not require a reasonable potential analysis at any time during the term of the permit.

Response l: The information to support a reasonable potential determination would be based on additional information that becomes available concerning a particular discharge (from monitoring results, for example). As such, the permit appropriately provides that a reasonable potential analysis (possibly leading to an individual permit or separate general permit) may be required at such a time.

Comment m: Discharges of a pollutant which increase during the term of the permit should not be considered a permit violation.

Response m: EPA disagrees with the commenter on this issue. The narrative statement in Part 3.3 of the MSGP requires that dischargers comply with all State water quality standards throughout the term of the permit. Dischargers must ensure that, if there are increases in the discharges of a particular pollutant, the increases are not sufficient to cause or contribute to exceedances of water quality standards.

Questions Regarding the Benchmark Concentrations

Comment n: Part 3.3 of the proposed MSGP would undermine EPA's use of the benchmark values in the MSGP.

Response n: EPA disagrees with the commenters in this regard. The benchmark values are concentrations which are used to evaluate whether a generally effective SWPPP is being implemented. The SWPPP is required to ensure compliance with the technology-based discharge requirements of the Clean Water Act. Exceedance of a benchmark value is not a permit violation. However, if a permittee complies with the benchmarks, the permittee is eligible for the monitoring waiver in year 4 of the term of the permit and this provides an incentive to implement an effective SWPPP. Part 3.3 of the MSGP is required to ensure compliance with the water quality-based requirements of the Clean Water Act, which are in addition to the technology-based requirements. Part 3.3 of the MSGP does not undermine the benchmarks. Part 3.3 is simply a separate requirement of the Clean Water Act which must be included in the permit in addition to the technology-based requirements.

General Comment on Water Quality Standards Requirements

Comment o: One commenter lodged a general objection to Part 3.3 of the proposed MSGP, but did not elaborate on specific concerns.

Response o: As discussed above, EPA believes that Part 3.3 is appropriate and necessary to ensure compliance with State water quality standards. As such, Part 3.3 was retained in the final MSGP.

Section 4.1 Storm Water Pollution Prevention Plan (SWPPP) Requirements

Comment a: EPA should not measure progress solely on the number of BMPs applied.

Response a: As stated, EPA's intention in requiring the comprehensive site compliance evaluation is to determine the effectiveness of BMPs in use at the site, and to assess compliance with the terms and conditions of the permit. Additional new BMPs are not prescribed as part of this requirement; the options to include BMPs to replace those which are not working appropriately, or to augment existing BMPs to ensure better performance, rests solely with the facility operator, based on the findings of the compliance evaluation.

Comment b: Clarify the frequency of training required.

Response b: Some industrial sectors covered by this permit are required to provide training at least once per year. In other sectors, it is left to the discretion of the operator. EPA's fact sheet recommends that facilities conduct employee training annually at a minimum, and acknowledges that, for some facilities, a more frequent training schedule may be appropriate to ensure that personnel at all levels of responsibility are informed of the components and goals of the site's SWPPP.

Comment c: Clarify the term ''locally available.''

Response c: EPA intends the term ''locally available'' to mean a facility office which need not actually be located on-site, but co-located with other facility operations. It is not necessary for a permittee to maintain a local presence near an unstaffed site for the purposes of maintaining availability of the SWPPP.

Comment d: Fourteen days is an unrealistic timeframe for modifying a SWPPP in response to a discharge of a reportable quantity of oil.

Response d: EPA does not consider the requirement to revise the SWPPP within 14 days after a discharge of a reportable quantity of oil to be unrealistic. Changes to accommodate a

description of the release, date and circumstances of the release, as well as a description of the actions taken to address the problem and any necessary changes to the BMPs to prevent future releases are inherently necessary to prevent water quality degradation.

Comment e: It is standard practice to keep a copy of their SWPPPs with their permit and, therefore, there is no objection to this requirement.

Response e: EPA acknowledges that many industrial facilities already keep a copy of the storm water permit with their SWPPP, and the Agency is formalizing that practice as a requirement of the permit for all facilities.

Section 4.2 Contents of Plan

Comment a: A commenter believed EPA was requiring velocity dissipation devices to minimize erosion due to flow velocity.

Response a: EPA's intention is to require facilities to evaluate the need for velocity dissipation devices where it is necessary to minimize erosion due to flow velocity. Facilities should use their best judgment when considering if velocity dissipation devices are needed. The language in the permit has been clarified.

Comment b: Specify a set of minimum management practices for coverage under the permit.

Response b: Due to the variety of industries covered by the Multi-Sector General Permit, there is no ''minimum'' list of best management practices that would suitably address the multiple situations found at different industrial sites. EPA considers it sufficient to outline minimum criteria that each facility operator must consider to minimize discharges from their property, and allow facility operators to identify and implement BMPs that are appropriate for their site.

Comment c: Do not require the SWPPP to identify oil spills or leaks below reportable quantities. Only those sites that have not been cleaned up to appropriate levels should be included in the site description and shown on the site map.

Comment d: EPA has not changed the basic intent of this permit requirement: a facility must keep a record of significant spills or leaks of both hazardous substances or oil and, for releases in excess of reportable quantities under 40 CFR Parts 117 or 302, revise its pollution prevention plan as necessary to prevent the reoccurrence of such releases. A spill or leak may not meet the threshold of a ''reportable quantity'' but may still be sufficiently significant to cause water quality impairment, and therefore should be acknowledged and mitigated by the permittee. EPA does not intend that ''reportable quantity'' defines the minimum amount of a substance which should be appropriately managed. In regards to including previous spill and/or leak areas in the site map and associated descriptions, the Agency views the inclusion of all areas where spills have occurred over the last three years from the date of NOI submittal as important information which may be useful in assessing future risks.

Comment d: The provision prohibiting discharge of ''solid materials'' is too broad and should be eliminated.

Response d: EPA intends the reference to ''solid materials, including floating debris'' and ''Off-site tracking of raw, final, or waste materials or sediment, and the generation of dust'' as having the generally accepted plain language meanings, and that facility operators should use their best professional judgment in applying this requirement to their discharge. The reference is not necessarily meant to apply in particular to suspended soil. EPA has purposefully allowed for reasonable flexibility in allowing each facility to determine whether ''solid materials,'' ''floating debris'' and/or ''dust'' are a component of their storm water discharge. The Agency acknowledges that many areas have state or local ordinances prohibiting the off-site tracking and generation of dust; therefore, this requirement does not pose a hardship on facility operators. While not prohibiting the discharge of waters containing soils, the permit still requires that discharges must comply with state/local water quality standards.

Comment e: The requirement for ''routine inspections'' and ''records of inspections'' are too broad.

Response e: EPA acknowledges that most industrial facilities conduct regular inspections of plant conditions. As discussed in Part 4.2.7.1.5 of the permit, facility operators must explicitly outline in the SWPPP the frequency of regular inspections at their facility which will incorporate inspections of industrial activities or materials that are exposed to storm water. Records of these specific storm water inspections, along with records of any followup actions taken as a result of these inspections, must be kept with the SWPPP. This facility-specific schedule of periodic inspections is what EPA is referring to as ''routine facility inspections.''

Comment f: An evaluation of groundwater impacts or concerns is beyond the scope of a stormwater pollution prevention plan.

Response f: In some cases, groundwater beneath a facility may be hydrologically connected to surface waters. EPA's intent for including an evaluation of impacts to groundwater when considering appropriate BMPs is to ensure that facility operators are fully cognizant of the hydrology of their area, and have evaluated any appropriate BMPs in the event that such a situation exists for their property. If there are no possible impacts to groundwater, this fact should be acknowledged in the SWPPP.

Section 4.4 Non-Storm Water Discharges

Comment a: Include swimming pool discharges as an allowable storm water discharge.

Response a: EPA does not include swimming pool discharge as an allowable non-storm water discharge in the Multi-Sector General Permit, as this is a general permit to cover storm water discharges from industrial activity. The Agency is unclear as to how many industrial facilities have swimming pools that would necessitate this specific exemption. The inclusion of nonchlorinated swimming pool discharges as an allowable non-storm water discharge will be better suited to the upcoming EPA Small Multiple Separate Storm Sewer General Permit, which will be available by December 2002.

Comment b: The permit should allow for case-by-case determinations for inclusion of de minimus non stormwater sources.

Response b: By its very nature, a general permit is meant to cover many similar discharges from a variety of similar sources. Case-by-case determinations for de minimus non-stormwater discharges would be extremely time-intensive, and it is not possible to provide for such individual determinations in the context of a general permit. Specific examples of de minimus discharges were not provided by the commenter; therefore, the Agency is not inclined to include such a provision at this time.

Comment c: Delete ''drinking fountain water:'' from Section 1.2.2.2.3 and cite only ''potable water including water line flushings.''

Response c: EPA agrees with the issues presented by the commenter, and that the term ''drinking fountain water,'' in itself, is imprecise. Both the draft MSGP fact sheet and permit specifically authorize potable water as an allowable non-storm water discharge. The

''drinking fountain water'' language has been deleted.

Section 4.7 Copy of Permit Requirements

Comment: Recommend electronic website access in lieu of paper copy of permit.

Response: The new requirement that a hard copy of the Multi-Sector General Permit be kept with a facility's Storm Water Pollution Prevention Plan is intended to ensure that the permit requirements are easily and readily available to all facility staff who are or may be responsible for implementing the provisions of the permit. Internet access may not be available to staff in all situations; therefore, for ease of reference, EPA is requiring that at least one copy of the permit be retained along with the SWPPP. The sections referring to EPA's acceptance of the electronic medium is contingent, in both cases cited by the commenter, upon the future viability of electronic submittal of NOIs and DMRs to the Agency.

Section 4.9 Timeline

Comment a: The fact sheet and permit need to provide consistent timeframes for SWPPP revisions.

Response a: The fact sheet and permit language were consistent on revising the SWPPP within 14 days of the site evaluation, but were somewhat confusing on how long the permittee had to implement the revisions. To clarify this time period, EPA has revised Part 4.9.3 of the permit to state: ''If existing BMPs need to be modified or if additional BMPs are necessary, implementation must be completed before the next anticipated storm event, or not more than 12 weeks after completion of the comprehensive site evaluation.''

Comment b: Thirty days to correct deficiencies in the SWPPP following notification by the Director is insufficient.

Response b: EPA intends for corrections to the Storm Water Pollution Prevention Plan to be accomplished in a timely manner, particularly when deficiencies are identified formally by the Director. The Agency feels that thirty days, as outlined in the existing permit language, is a reasonable amount of time for such changes to be made; if revisions are significant, the permittee may request, and the Director can provide, additional time for revisions to be accomplished.

Comment c: Fourteen days to modify a SWPPP is insufficient.

Response c: The Agency feels that revising the Storm Water Pollution Prevention Plan appropriately to address deficiencies within 14 days is a reasonable timeframe in which to address changes administratively; additional time is provided to actually put those revisions into place.

Comment d: The SWPPP must be completed and in place prior to issuance of the permit.

Response d: Part 4.1 of the permit states that a SWPPP must be prepared for the facility before submitting a Notice of Intent for permit coverage. EPA's issuance of the MSGP–2000 does not automatically confer coverage to permittees; therefore, EPA feels the requirement that a site-specific SWPPP be in place for the facility operations prior to seeking coverage by way of the submittal of a NOI is sufficient to prevent environmental degradation.

Section 4.12 Additional Requirement: EPCRA Section 313 Reporting

Comment: Many commenters supported removal of EPCRA Section 313 reporting requirements from the permit. Two commenters objected to identifying areas with pollutants that must be reported under EPCRA Section 313 and to develop appropriate storm water controls for these areas.

Response: EPA acknowledges the general support for revisions to this section. The intent of these modifications is to eliminate the redundant requirements of the existing MSGP for permittees subject to reporting requirements under Section 313 of EPCRA, which includes the 20+ categories of Toxic Release Inventory chemicals. The Agency believes that the MSGP–2000 places no additional burden on facility operators with TRI chemicals. Identification of EPCRA 313 chemicals in the SWPPP acknowledges that these chemicals are pollutants of concern. Facilities with any of these pollutants need to develop appropriate storm water controls to contain them. As noted in the fact sheet, EPA believes these concerns have been addressed through existing state and federal requirements which can be referenced in the SWPPP.

Section 4.13 Public Availability for Review

Comment a: The public should be able to obtain access to and comment upon a SWPPP and ''no exposure'' claim before they are finalized.

Response a: EPA has, in response to this comment, included a provision in the final permit requiring facility operators to make a hard copy of their SWPPP available to the public when requested in writing. EPA believes this requirement is an acceptable compromise between the facility operator's concerns about having members of the public at their site and the need of the public to understand potential impacts on their environment. EPA does not receive SWPPPs routinely, and, therefore, cannot make them available at its offices or provide them to local government offices. As with the previous MSGP, members of the public have the option of contacting the NOI Center or the Regional EPA Storm Water Coordinators directly to inquire about a facility's permit status.

EPA does not intend to require public comment on SWPPPs, nor require public hearings, because SWPPPs are intended to be modified as necessary to address changes at the facility or when periodic inspections indicate that a portion of the SWPPP is proving to be ineffective. Requirements for public comment and public hearings would delay needed modifications to, not to mention development of, the SWPPP, be burdensome and serve as disincentives to plan updates.

At any time the Agency can conclude that a facility is no longer eligible for coverage under a general permit and require the facility to apply for a general permit. In that event, there would be significant opportunity for public input in the decision-making process.

Comment b: The following should be available in paper copy and on the web: NOI, SWPPP, and ''no exposure'' certification.

Response b: EPA has found that having a central location for processing NOIs is an efficient and effective way of managing the tremendous amount of data which the Storm Water program generates. Very shortly, members of the public will be able to access information from the NOI database online. The NOI database contains facility information, including the type of industrial activity taking place, facility contact information, and receiving water body information. Also available online will be information on facilities that have submitted ''no exposure certifications.'' Regarding SWPPPs, EPA does not receive them routinely and, therefore, cannot make them available on-line. EPA has, in response to this comment, included a provision in the final permit requiring facility operators to make a hard copy of their SWPPP available to the public when requested in writing. EPA believes this requirement is an acceptable compromise between the facility operator's concerns about having members of the public at their site and the need of the public to understand potential impacts on their environment.

Section 5.1 Types of Monitoring Requirements and Limitations

Comment a: A commenter requested language clarification for the first paragraph under Part 5.1, Quarterly Visual Monitoring.

Response a: Quarterly visual monitoring is required for all permittees covered under the MSGP. The visual inspection must cover all outfalls at the facility from which there are storm water discharges associated with industrial activity.

Comment b: A commenter indicated that Part 5.1.1.4 was clear regarding the visual monitoring waiver for inactive and unstaffed sites. However, it was unclear if a similar waiver for benchmark monitoring applies to inactive and unstaffed sites.

Response b: EPA has clarified in Part 5 that a permittee may exercise a waiver for benchmark monitoring at unstaffed and inactive sites.

Section 5.3 General Monitoring Waivers

Comment a: Commenters supported the adverse sampling condition waiver, as long as the permittee doubles sampling during the next event or eliminates the substitute sampling requirement for areas with extended frozen conditions.

Response a: EPA has decided to keep this temporary waiver, since the main purpose of this specific waiver is to allow the permittees the opportunity to take samples under no adverse nor threatening weather conditions.

Comment b: Allow permittees to waive benchmark monitoring in years 2 and 4 of the MSGP–2000 with the result of the 1995–MSGP; waive difficult logistical conditions or location access similar to those for unstaffed/inactive facilities; and impractical sample collection at large facilities.

Response b: Under Section 402 of the CWA, EPA is required to issue permits which apply and ensure compliance with any applicable requirements of sections 301, 302, 306, 307, and 403. Since these permits are issued with fixed terms not exceeding five (5) years, EPA needs to ensure that permittees continue to comply with applicable requirements. EPA believes that benchmark monitoring is not overly burdensome and provides useful information to the permittee and the Agency. Therefore, EPA will require permittees covered under the reissued MSGP to ensure continued compliance with permit conditions and requirements. In addition, EPA has determined that the general monitoring waivers provided in the previous permit are adequate, and that additional waivers are not needed. With regard to problems facilities encounter when monitoring their storm water discharges, such as difficult logistical conditions, access to discharge locations or impractical sample collection at large facilities, EPA recommends permittees review the ''NPDES Storm Water Sampling Guidance Document'' which suggest solutions to these sampling problems.

Section 6.E Sector E—Glass, Clay, Cement, Concrete and Gypsum Products

Comment a: Separate the concrete pipe manufacturing from the cement, ready mixed and concrete block manufacturing sector.

Response a: Based on the characterization of the concrete pipe manufacturing industry and the cement, ready mixed and concrete block manufacturing industry, EPA has determined that the two industries are similar and, thus, has retained the industrial sectors as described in the 1995 permit.

Comment b: Section 6.E.3.1 of the draft permit was not reflective of the September 30, 1998 modification.

Response b: The commenter is correct. The final permit has been changed to reflect the September 30, 1998 modification which removed the limitations of coverage for various industries. Paragraph 6.E.3 has been removed and the remaining paragraphs have been renumbered accordingly.

Section 6.F Sector F—Primary Metals

Comment a: Do not propose any new BMPs for the steel industry in the MSGP–2000.

Response a: Similarly to the 1995 MSGP, the MSGP–2000 prefers the implementation of structural and non-structural BMPs for stormwater management from Primary Metals facilities. It is up to the individual operators to decide which BMPs most effectively meet their needs. This does not preclude the use of additional or new technologies should they be found to be more effective in any given application.

Comment b: The BMPs provided at Parts 6.F.3.2 and 6.F.3.3 omit the most obvious qualifier, which is that inventories of exposed material and housekeeping should be mandated by the MSGP only where the exposed materials have a potential to contact storm water that is discharged from a point source to a water of the United States. In many cases, the types of materials and activities discussed in the above referenced parts occur in areas where precipitation is collected and contained, and is not discharged. Thus, site inventories and BAT practices discussed in these parts are not relevant except in areas where they affect storm water discharges authorized by the MSGP. Parts 6.F.3.2 and 6.F.3.3 should be clarified (similarly to Part 6.F.3.1) with a statement that these activities are required only in areas where such activities could result in a discharge of pollutants to waters of the United States.

Response b: One of the underlying premises of the MSGP is that if there is a potential for contact between storm water and environmental contaminants, then the facility should apply for coverage under the MSGP. If there is no potential for contact, the facility may be able to submit a ''no exposure'' certification form, and not be required to obtain permit coverage. Where there is a potential for contact between storm water and industrial activities and/or materials, then the operator needs to obtain permit coverage and take appropriate measures to mitigate the discharge of pollutants.

Comment c: Part 6.F.3.4 includes a requirement for inspections performed under the 2000–MSGP to, among other things, evaluate air pollution control equipment. This activity does not belong under the MSGP. It is a Clean Air Act requirement and an activity performed under each facility's Clean Air Act permit. Such inspections under the MSGP are redundant, inappropriate and extend EPA's CWA authority into the CAA. Inspections of air pollution control equipment should not be a component of any SWPPP or compliance certification under the CWA.

Response c: EPA understands why inspection requirements which routinely fall under the purview of one environmental program (in this case the Air Program) would appear inappropriate under another environmental program (in this case the Water Program). However, if one looks at the potential sources of pollution at primary metals facilities, one will soon discover that one of the principal sources of contamination is from the air pollution control devices. The purpose of the storm water regulations is to keep storm water from coming into contact with any contaminants, regardless of the environmental media from which it arose. If inspections are routinely conducted at a facility pursuant to one environmental statute, that same inspection will generally be accepted by another program. For example, if the facility routinely inspects its air pollution control devices as a requirement of its CAA permit, that

same inspection, with the possibility of a few additional observations, *e.g.,* to see if there is any evidence of run off, should also be accepted as part of the SWPPP. The SWPPP can cross reference inspection protocols for the CAA permit. Thus, EPA does not agree with the commenter that these requirements are either redundant, inappropriate or extend EPA authority.

Section 6.G. Sector G —Metal Mining (Ore Mining and Dressing)

Comment a: Include Table G–4, published in the August 7, 1998 modifications, in MSGP–2000. Also, table titles in this section are confusing since they appear to imply that effluent guideline limitations apply to waste rock and overburden piles.

Response a: We have included the revised table G–4 from the August 7, 1998 modification in the fact sheet for today's permit. The titles of tables G–1 and G–2 are consistent with the titles in the other sectors of the final permit. All monitoring tables in Part 6 of the permit are titled ''SECTOR–SPECIFIC NUMERIC LIMITATIONS AND BENCHMARK MONITORING.'' The Agency doesn't not believe that this title is misleading because each table contains a column labeled ''Numeric Limitation'' which either contains a numerical value or is blank. For those Sectors where there are no values listed in the numeric limitation column it is clear that numeric limitations do not apply. EPA recognizes that benchmark concentrations are not effluent limitations and is provided specific language in the permit to that effect.

Comment b: The commenter opposes EPA's disallowance of sampling waivers from monitoring requirements for waste rock and overburden piles. Another commenter argued that another waiver based on ''not present or no exposure'' had also been deleted. A third commenter noted that monitoring requirements were also inconsistent with the 1998 permit modifications.

Response b: The restriction on sampling waivers was not intended to exclude the ''Adverse Climatic Conditions Waiver'' in Part 5.3.1 of the permit. The final permit has been revised to correct this error. Also, Part 6.G.7.2 has been modified to reflect that the monitoring requirements only apply to discharges from active ore mining and dressing facilities and that these requirements remain unchanged from the 1998 permit modification. The second waiver in Part 5.3 which is based on ''not present or no exposure'' was not part of the August 1998 notice, and was not intended for sector G facilities.

Comment c: The limitation on coverage for adit drainage and contaminated springs or seeps should be modified to exclude only those that do not result from precipitation events. The proposed Certification of Discharge language is confusing since it implies an obligation for testing or evaluation of mining-related discharges that are composed entirely of non-storm water covered by an NPDES permit.

Response c: Adit drainage and contaminated springs and seeps are discharges that originate below the surface of the ground. Often they discharge during dry periods and, while in some instances these flows may increase in response to a storm event, they may continue to flow well after the precipitation has ended. Therefore, EPA has determined that the restriction (*i.e.,* prohibition) for MSGP coverage of discharges from adit drainage, contaminated springs and seeps should remain as proposed.

The ''Certification of Discharge Testing'' language has been modified to clarify that certification must be provided to show that any mining-related discharge has been ''tested or evaluated for the presence of non-storm water discharges.'' Additional wording has been added to Part 6.G.6.1.6.6 to make it consistent with the language in the 1995 MSGP.

Comment d: Provide guidance in Section 6.G.6.1.6.6 on what type of test should be performed.

Response d: The language has been modified to allow for a certification based on ''tested or evaluated'' information. Additional wording has been added to Part 6.G.6.1.6.6 to make it consistent with the language in the 1995 MSGP.

Comment e: The definition of ''reclamation phase'' is inconsistent with most state programs.

Response e: The definition of the three general phases of mining was taken from the fact sheet to the 1995 MSGP. The intent was to recognize that ''mining'' is comprised of several distinct activities, not to set a standard for each phase. EPA acknowledges that reclamation requirements are typically set by state programs, and therefore the permit language defining the reclamation phase has been modified to reflect other post-mining land uses.

Comment f: In reformatting the permit language, EPA introduced new requirements which are inconsistent with the settlement EPA reached with NMA in 1998.

Response f: The draft MSGP–2000 intended to incorporate all the requirements from the 1998 notice resulting from the settlement with NMA. However, in making the changes and converting to a more ''readable'' format some unintended errors occurred. The revisions to the monitoring requirements have been made so the final permit language is consistent with the 1998 **Federal Register** publication (63 FR 42534, Aug 7, 1998).

Comment g: Delete the phrase ''directly or indirectly'' from coverage of ''storm water discharges that have come into contact (directly or indirectly) with any overburden, raw material, intermediate product* * *'' since it is inconsistent with prior versions of the permit.

Response g: The storm water regulations (Section 122.25(b)(14)(iii)) require permit coverage for ''facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products* * *'' When revisions were made to the draft MSGP 2000 language to make the permit more ''readable,'' some of the words were changed. In order to be consistent with the storm water regulations, the permit language has been revised. The words ''come into contact (directly or indirectly)'' have been deleted and replaced with ''contaminated by contact or that has come into contact.''

Comment h: EPA was incorrect in stating that all facilities permitted in this sector are ''no discharge'' facilities.

Response h: The monitoring discussion in the Fact Sheet to the permit is a summary of the data available at the time the draft permit was published for public comment. The main focus of the summary was on data from the second year of permit coverage. Of those sector G facilities that submitted information in year 2 of the permit none of them reported a discharge. The 1998 MSGP modification which reflected the settlement with NMA and added monitoring requirements for sector G was much later in the permit term. The final fact sheet language has been changed to recognize the later data and discharge status of sector G facilities covered by the permit.

Comment i: Water technically qualifying as mine drainage but which meets all applicable surface water quality standards should be approved for use in lieu of fresh water for dust control on roads at mine sites.

Response i: The quality of the mine drainage can change from source to source and over time within the same mine. The MSGP would need to specify a process (*e.g.,* monitoring frequency) to ensure that the quality of the mine

drainage is protective of water quality. This type of facility specific considerations and potential monitoring requirements would be better addressed under an individual permit issued to the facility.

Sections 6.G and 6.J Construction Requirements for Sector G—Metal Mining and Sector J—Mineral Mining

Comment a: Commenters questioned why EPA was requiring coverage under a construction general permit for earth disturbing activities during the ''exploration and construction phase'' of a mining operation.

Response a: This requirement was originally contained in the 1995 MSGP Fact Sheet for Sector J (it was inadvertently not duplicated in the metal and coal mining [Sector G] sectors). It therefore represents a clarification or technical correction to the original MSGP. To clarify the applicability of the MSGP regarding construction activity at metal mining sites and to make metal mining requirements consistent with mineral mining provisions (Sector J), Sector G has been modified to indicate that earth-disturbing activities occurring in the ''exploration and construction phase'' of a mining operation must be covered under EPA's Construction General Permit (63 FR 7858, February 17, 1998) or under an individual permit if the area disturbed is one acre or more. Earth-disturbing activities during exploration/construction affecting less than one acre must be covered under the MSGP–2000. If permittees then opt to actively mine the site they are required to transition to the MSGP–2000 (they should terminate their coverage under the CGP, but there is no requirement to do so). This procedure removes commenters' ''dual-permit requirement'' fear. Once in the active phase, any subsequent mine enlargement would be covered under the MSGP–2000. All phases of a mining operation must be covered which includes the ''reclamation phase.'' EPA believes the appropriate level of environmental protection for initial land-disturbing mining activities is a construction permit. SWPPP requirements under a construction permit are more effective for the often temporary conditions found during the initial phase versus that which would be appropriate for a more permanent mining operation. Many of the BMPs and other SWPPP requirements of the Construction General Permit could be incorporated in the MSGP–2000 SWPPP, thereby minimizing any duplicative efforts.

Comment b: For Sector J for Region 9, the proposed MSGP only authorized mine dewatering discharges from crushed stone, construction sand and gravel, and industrial sand mines in Arizona. For Regions 1, 2, 6, and 10, coverage was proposed throughout the areas of these regions covered by the MSGP. Expressions of interest in MSGP coverage for these discharges have been received for other areas, such as Indian country in Nevada and California.

Response b: For consistency with the other regions, coverage for the discharges has been extended throughout the areas of Regions 3, 8 and 9 covered by the permit, provided the dischargers meet all other permit eligibility requirements.

Section 6.I Sector I—Oil and Gas Extraction

Comment: One commenter expressed concern that while refineries were covered under Sector I—Oil and Gas Extraction, refining was not usually considered ''oil and gas extraction'' and the title of Sector I could thus cause refinery operators to overlook permit conditions that could apply to them.

Response: EPA welcomes this suggestion to make the permit easier to use and the title for Sector I has been changed to ''Oil and Gas Extraction and Refining'' in Table 1–1 and in Part 6.I. Note however, that any storm water at a refinery that is subject to storm water effluent limitation guidelines at 40 CFR 419 is not eligible for permit coverage.

Section 6.R Sector R—Ship and Boat Building or Repair Yards

Comment: One commenter requested that the provisions of part 6.R.4.3.1. be clarified to note that pressure washing to remove paint would require a separate NPDES permit.

Response: EPA agrees that if pressure washing occurs to remove paint, the discharge of that wash water would require separate NPDES permit coverage. EPA also intends for the discharge of wash waters removing marine growth to be permitted separately. The source of the discharge is not storm water and, as a general rule, the MSGP only authorizes the discharge of storm water. The non-storm water discharges that are authorized by the MSGP are a specific list found in Part 1.2.2.2. of the permit and the list does not include pressure wash waters.

Section 6.S Sector S—Air Transportation

Comment: Commenters had concerns regarding the execution of site compliance evaluations and inspections of deicing areas. They also requested EPA to limit the inspection obligation to once per month during periods of deicing operations.

Response: The MSGP–2000 has been clarified to state that compliance evaluations shall be conducted during a period when deicing activities are likely to occur (vs. a month when deicing activities would be atypical or during an extended heat wave), not necessarily during an actual storm or when intense deicing activities are occurring. This requirement is not seen as onerous, as EPA believes that most weather conditions can be reasonably anticipated and the evaluation can be planned for. EPA generally agrees that regularly scheduled, monthly inspections of deicing areas during the deicing season (*e.g.,* October through April) are sufficient at airports with highly effective, rigorously implemented SWPPPs. However, if unusually large amounts of deicing fluids are being applied, spilled or discharged, weekly inspections should be conducted and the Director may specifically require such weekly inspections. In addition, personnel who participate in deicing activities or work in these areas should, as the need arises, inform the monthly inspectors of any conditions or incidents constituting an environmental threat, especially those needing immediate attention. EPA requires permittees to record, to the best of their ability, the quantity of all deicing chemicals applied on a monthly basis (not just glycols and urea, *e.g.,* potassium acetate), as discharges of large quantities of these chemicals can have an adverse impact on receiving waters. The capability to record usage of chemicals should not depend on the type of chemical used. EPA never intended to provide a comprehensive list of technologies and BMP options for airport operators to consider, nor to provide a discussion of the relative merits of each. EPA's discussion was simply an introduction of the many options available and was intended to stimulate thought on the variety of BMPs available. EPA intends that storm water personnel use their best professional judgment to select site-appropriate measures for inclusion in their SWPPPs. For a more thorough source of information on deicing fluid control and airport deicing operations in general, stakeholders can check the EPA publication ''Preliminary Data Summary, Airport Deicing Operations'' at http://www.epa.gov/ost/guide/airport/index.html.

Section 6.T Sector T—Treatment Works

Comment: Clarify that treatment works smaller than 1.0 MGD are not

defined as industrial activities and, therefore, are not subject to the permit.

Response: The final permit language has been modified to be consistent with the industrial definition of § 122.26(b)(14)(ix). The requirements of Sector T are intended to apply only to those treatment works with a design flow of 1.0 MGD or more, or required to have an approved pretreatment program.

Section 8 Retention of Records

Comment: Clarify the Retention of Records language.

Response: EPA has clarified the Retention of Records language used in this permit. Part 8.1 states that the permittee will retain, for three (3) years after the permit expires or is terminated, the SWPPP and all documents/reports needed to complete their Notice of Intent form. In addition, Part 9.16.2.1 addresses the retention of records for the permit monitoring requirements for three (3) years from the date of sample, measurement, evaluation or inspection, or report. Permittees are required to submit Discharge Monitoring Reports for compliance and/or analytical monitoring.

Section 9 Standard Permit Conditions

Comment a: Several comments were received on Part 9.12.1 for requiring coverage under an individual permit or an alternative general permit. Commenters suggest that the permittee be allowed to appeal a Director's decision; provide for determination of non eligibility and semblance of surety available by a permittee who demonstrates eligibility and compliance with the MSGP; and authorize automatic transfer provided all storm water permitting conditions and obligations are met.

Response a: EPA may modify, revoke and reissue, or terminate a permit during its term. Causes for modification, revocation and reissuance, and termination are set forth in 40 CFR § 122.62 and 122.64. Specific causes may include: noncompliance by the permittee with any condition of the permit; failure in the application or during the permit issuance process to disclose fully all relevant facts; determination that the permitted discharge endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or there is a change in any condition that requires either a temporary or a permanent reduction or elimination of any discharges controlled by the permit. In addition, EPA recently published a final rule which revises certain regulations pertaining to the NPDES program, including the procedures for appealing an EPA determination on NPDES permits. See *Amendments to Streamline the National Pollutant Discharge Elimination System Program Regulations; Round II*, 65 Fed. Reg. 30886 (May 15, 2000). Included in the rule are revisions to the permit appeals process that replace evidentiary hearing procedures with direct appeal to the Environmental Appeals Board (EAB). The website for the EAB is ''http://www.epa.gov/eab/''. The webpage has a frequently asked question section, ''http://www.epa.gov/eab/eabfaq.htm''. Questions 1 through 9 deal with filing issues, which the commenter can refer to for instructions on how to proceed in filing an appeal with EAB. EPA does not allow automatic transfer from individual permits into other individual or general permits since EPA needs to maintain adequate records of permittees and make periodic evaluations of the adequacy of their measures to comply with permit requirements.

Comment b: EPA should extend coverage to facilities wishing to apply after the expiration date of the MSGP until the permit is reissued.

Response b: Where EPA fails to reissue a permit prior to the expiration of a previous permit, EPA has the authority to administratively extend the permit for facilities already covered. However, EPA does not have the authority to provide coverage to ''new'' facilities seeking coverage under an expired permit. This concern is not applicable in this instance to the MSGP since the MSGP–2000 was issued before the MSGP–1995 expired.

Section 13 Permit Conditions Applicable to Specific States, Indian Country Lands

Comment: The Agency should not require compliance with provisions of state rules that it cannot specifically identify. For example, EPA requires compliance with state anti-degradation provisions. The Agency provides no assistance with regard to how a small business might somehow ascertain what those provisions are, who has them, and how they might apply to the facility's discharge. See 65 Fed. Reg. at 17021. The Agency must specify precisely how a company would obtain appropriate data and how it should apply that data to its operations. Without this necessary guidance, this new provision should be removed from the final permit.

Response: The permit states that discharges are not covered if they violate, or contribute to the violation of, a state water quality standard. An anti-degradation policy is one component of a state's water quality standards program. The permittee is responsible for checking to ensure compliance with these provisions. Facility operators can check with the EPA official listed in this permit to obtain the name of the appropriate state contact.

Section I.A General Opposition to Proposed Changes

Comment: A commenter objected to several of the proposed modifications to the ''Limitations on Coverage'' provisions in the Proposed MSGP–2000, including the proposed revisions to the Endangered Species Act requirements (Section 1.2.3.6), the addition of the antidegradation provision (Section 1.2.3.9), the addition of the impaired waters and TMDL provisions (Section 1.2.3.8), and the addition of the compliance with water quality standards provisions in Section 3.3.

Response: The Agency acknowledges the comment. Justifications for each of the positions cited by the commenter are provided in the fact sheet accompanying the permit. Specific objections to these provisions are addressed elsewhere in the comment response document.

Section I.B General Support to Proposed Changes

Comment a: Several commenters supported EPA's continued use of a general NPDES permit for regulating storm water discharges associated with industrial activity. The commenters indicated that this was an efficient and effective means for achieving the goals of the Clean Water Act.

Response a: EPA agrees with the commenters regarding the appropriateness of general permits for the majority of industrial storm water discharges. The issuance of the final MSGP is consistent with these comments.

Comment b: A commenter supported the proposal to authorize incidental windblown mist discharges from cooling towers as an authorized non-storm water discharge under the MSGP.

Response b: These discharges are included in the final MSGP consistent with the recommendation of the commenter.

Comment c: A commenter supported the provision in the proposed MSGP to allow termination of permit coverage based on the ''no exposure exemption'' (40 CFR 122.26(g)) provided under EPA's Phase II storm water regulations of December 8, 1999 (64 *Fed. Reg.* 68722).

Response c: Although the no exposure exemption would be available whether or not it is specifically included in the

MSGP, EPA has retained the provision in the final MSGP to highlight its availability for those facilities which qualify.

Section I.C Fact Sheet

Comment a: It is imperative that EPA conduct an environmental justice analysis for the MSGP to ensure that the permit is consistent with the goals of EPA's Environmental Justice Strategy of April 3, 1995, the President's 1994 Executive Order on Environmental Justice and Title VI of the Civil Rights Act. The notice of intent (NOI) must include demographic information. EPA must seek comments of minority and low-income communities regarding the MSGP.

Response a: EPA disagrees with the commenter that an environmental justice analysis is necessary prior to the reissuance of the MSGP. Regarding Title VI requirements, EPA has recently proposed guidance (65 *Fed. Reg.* 39649, June 27, 2000) for assisting recipients of Federal funding which administer environmental programs (such as state environmental agencies), as well as guidance for investigating alleged disparate environmental impacts stemming from permitting programs administered by these agencies. The guidance is also appropriate for EPA permits, such as the MSGP.

The Title VI guidance encourages permitting authorities to integrate environmental justice into their permitting programs. However, an environmental justice analysis is not required for every permit issued by a state permitting authority or by EPA. No information was provided by the commenter that a disparate impact on minorities would exist as a result of the MSGP. The MSGP includes numerous effluent limitations and other conditions which should be protective of water quality for all neighborhoods in which permitted facilities are present. EPA does intend to integrate environmental justice considerations explicitly into its permitting programs as outlined in the Title VI guidance. However, this will likely be a longer term process (extending beyond the time frame for reissuance of the MSGP) given the many complexities of the issue.

EPA's Environmental Justice Strategy of April 3, 1995 (developed pursuant to the President's 1994 Executive Order) has similar goals as Title VI of the Civil Rights Act. Again, however, an environmental justice analysis is not required for every permit issuance. The integration of the goals of the Environmental Justice Strategy into the NPDES permit program will also take time given the many complexities of the environmental justice issue.

EPA is committed to implementing the Executive Order on Environmental Justice. As a practical matter, environmental justice concerns are community specific. EPA will work with a specific community that may express concerns related to a specific source or other environmental burdens. If and when a community raises such issues, EPA can then consider a proper course of action. In the case of the MSGP which will largely permit existing facilities, EPA will engage the community that has raised the issue and, if appropriate, work with the State and local agencies to address their concerns. If violations of any applicable standards are identified, EPA can pursue possible enforcement actions. The MSGP also provides that an alternate general permit could be issued for any geographic area which may be identified in the future as subject to disparate environmental impacts.

EPA has public noticed its intent to reissue the MSGP and has requested comments throughout the areas potentially affected by the permit, including areas where minority and low-income communities are present. EPA believes that its outreach activities have been sufficient for the permitting action which was proposed. However, EPA's Environmental Justice Strategy also provides for additional outreach activities in the future which may include outreach to minority and low-income communities specifically regarding the MSGP.

EPA disagrees that demographic information should be required with the NOI. The NOI does include location information for industrial facilities seeking coverage under the permit. Using this information it is possible to locate facilities covered by the permit relative to the locations of different demographic groups. As such, it is not necessary for the NOI to include demographic information.

Comment b: A commenter expressed concern that some non-storm water discharges may be improperly characterized as storm water by certain facilities. The commenter recommended that EPA carefully review permit applications and conduct inspections to ensure that such discharges are treated as point source discharges and not covered by the MSGP.

Response b: Point source discharges would violate the Clean Water Act unless they are authorized by a separate NPDES permit. The MSGP also requires that operators review their facilities for the presence of unpermitted non-storm water discharges which are not authorized by the MSGP. When such discharges are located, the MSGP requires that the discharges be permitted or terminated. This requirement should minimize the possibility that inappropriate non-storm water discharges are discharged under the MSGP. As recommended by the commenter, EPA does conduct periodic inspections of facilities permitted under the NPDES permit program to evaluate the compliance status of a facility with the requirements of the Clean Water Act, including the presence of any unpermitted discharges. Although the permit application for the MSGP (the notice of intent) does not specifically address the issue of non-storm water discharges, EPA believes that the other requirements of the MSGP, along with EPA's inspection program, adequately address the commenter's concern.

Section II.A Organization and Clarity

Comment a: Virtually all commenters supported EPA's effort to make the MSGP smaller and easier to understand. Several comments did express concern that the reorganization and clarification of the permit may have resulted in some substantial changes in permit requirements that may not have been identified and explained in the preamble to the proposed permit. The issue of whether or not explanation and guidance contained in the 1995 MSGP preamble could still be relied upon was also raised.

Response a: EPA went to great lengths to make the permit shorter and easier to understand and believes all substantive changes were identified and discussed in the preamble to the proposed permit. Responses to specific comments on areas where a commenter felt that adequate explanation for changes was not included in the proposal are provided in responses to that comment. With regard to the more specific explanation of sector-specific activities, etc. in the preamble to the 1995 MSGP, this information was incorporated by reference into the proposal of today's permit and may still be relied upon to the extent it does not conflict with the MSGP–2000 documents or is superceded by later guidance. Commenters noted several instances where EPA unintentionally changed requirements through the reformatting. EPA has corrected the permit and identified these instances throughout the comment response document.

Comment b: Based on EPA's use of incorporation by reference in the proposed permit's preamble to avoid reprinting material from the 1995 MSGP's preamble, one commenter expressed concern that the requirement

in Part 4.7 to have a copy of the final permit with the Storm Water Pollution Prevention Plan would be difficult if the entire permit was not in a single package. This commenter also was concerned that references to multiple Internet sites for more information would further compound this problem. The commenter further suggested that a copy of the permit and relevant guidance be included with the NOI ''confirmation'' letter sent by EPA in response to a complete NOI. Another commenter supported making all relevant information available in a single document.

Response b: The entire permit, appropriate addendums, the preamble ''fact sheet,'' and comment response summary are being published today in the **Federal Register** and will, therefore, be easily available from several Internet sites and from Federal Depository Libraries. The information not repeated in the proposed permit notice was primarily background and fact sheet information from the preamble to the 1995 MSGP. While the preamble and response to comments sections of the final permit notice will undoubtedly be valuable to many permittees, the Part 4.7 requirement to have a copy of the permit language with the Storm Water Pollution Prevention Plan refers only to the permit language itself, including addendums. Based on experience with the previous permit, EPA believes the benefits of keeping the size and complexity of the permit to manageable (*i.e.,* less intimidating, easier to use) level far outweigh the benefit of making all supporting and guidance information, much of which will apply to only a small portion of potential permittees, available in a single document. EPA does expect that for convenience, many permittees will simply attach a copy of the entire **Federal Register** notice of the final permit to comply with Part 4.7.

EPA believes the references throughout the permit and preamble to various Internet sites is a sensible alternative to publishing information, only a small part of which may apply to any one facility or which will be changing over time and quickly become outdated. For example, due to periodic updates that must be made to the endangered species list based on new species being listed or old ones delisted, the county-species list was not published with the final permit. This omission saves tax dollars on publication, keeps the size of the permit package down (the current list would double the size of the permit while any one facility only needs to look at a page or so of information), and avoids the inadvertent use of an outdated species list that could result not only in failure to consider potential adverse effects on an endangered species, but also negate a discharger's permit coverage. EPA relies heavily on electronic distribution of documents and guidance, but will be able to provide hard copy or telephone-based information to those who have no access to the Internet or Federal Depository Libraries.

As noted above, the complete permit has been printed and EPA intends to make guidance available, primarily through the Internet. The suggestion to include a copy of the permit and guidance with the NOI ''confirmation'' letter is impractical since most of this information would have been necessary to develop the Storm Water Pollution Prevention Plan that must be developed before the NOI can be submitted.

Section III Geographic Coverage of Proposed MSGP

Comment: Several commenters and attendees of meetings on the proposed permit identified an inconsistency between Part 6.J.3 of the permit, where mine dewatering discharges from construction sand and gravel, industrial sand, and crushed stone mines were apparently eligible only in Arizona and both the previous permit and the preamble to the proposed MSGP–2000 where such discharges were also eligible in all of the permits for Region 1, 2, 6, and 10. One commenter referred to pages 17025 and 17034 of the preamble to the proposed permit in support of their belief that the proposed permit had been intended to provide coverage in Regions 1, 2, 6, and 10 and in Arizona.

Response: The typographical error in Part 6.J.3 has been corrected. As supported by item 4 on page 17025 and item 2 on page 17034 of the **Federal Register** notice of the proposed permit (65 FR 17025 and 17034), coverage for mine dewatering discharges from construction sand and gravel, industrial sand, and crushed stone mines in not only Arizona, but also Regions 1, 2, 6, and 10 was intended.

Section V.A Historic Preservation

Comment a: It would be more in keeping with balancing the agency's CWA mandate and NHPA obligation to not preclude general permit coverage for those discharges that may affect historic properties. Instead, require the general permittee to notify the agency of the existence of a listed historic property that will be affected along with any preventive or mitigation measures, if necessary, that it plans to implement. EPA could then decide if any further consideration or action is warranted, including any comment by the Council. The obligations established under § 106 are placed upon the agency, not on the permittee.

Response a: EPA agrees and acknowledges that NHPA Section 106 imposes obligations only on federal agencies and not on third parties. EPA's action in issuing permits, however, triggers NHPA Section 106. In order to issue a general permit, EPA included historic preservation-related application and eligibility provisions in order to ensure that it could ''filter'' out permitting activities that might otherwise trigger advanced procedures under NHPA Section 106. Section 110(k) of the Act prohibits a Federal agency from granting a loan, loan guarantee, permit, license or other assistance to an applicant who intends to avoid requirements of section 106 (64 FR 95 May 18, 1999). To meet this responsibility, EPA requires the applicant to do one of the following: (1) Determine that historic properties are not in the path of permit activities, (2) determine that permit activities have no impact on historic properties, or (3) the permittee reaches agreement with appropriate authorities on measures to mitigate or prevent adverse effects. Thus, it is quite possible for facilities having an impact on historic properties to be covered by the MSGP. Authorization to discharge under the MSGP is a privilege, not a right, which carries with it certain procedural and timing advantages for the permittee. Therefore, it is incumbent upon the permittee, not EPA, to conduct whatever investigations and consultations are necessary consistent with EPA's obligation to satisfy NHPA provisions.

Comment b: The notice states that the provisions in Part 1.2.3.7, are ''likely to change as a result of consultations'' under the NHPA. The procedures set forth in Addendum B are described as being ''models'' of what the NHPA guidance ''may look like.'' These provisions are critical for permittees to determine their eligibility for coverage under MSGP–2000, and any substantive changes in these areas should be subject to review and comment by the regulated community before they are adopted.

Response b: There are no changes to these provisions as a result of NHPA consultations.

Comment c: Part 2.1.2.2, which deals with discharges that are authorized under the 1995 MSGP, but not clearly eligible for coverage under this permit, does not allow adequate transition time for those permittees who do not have up-to-date determinations pursuant to the NHPA.

Response c: Within 90 days the permittee must apply for MSGP coverage and certify his compliance with other permit provisions. He then has up to 180 additional days of interim coverage under the MSGP while he conducts the consultation and determines whether he meets the criteria for coverage under the MSGP. EPA believes that 270 days is a sufficient period to conduct and conclude this consultation and take whatever action is necessary to ensure continued permit coverage.

Comment d: EPA states that, ''For existing dischargers * * * a simple visual inspection may be sufficient * * * '' (emphasis added). This statement is somewhat disingenuous because a ''simple visual inspection'' is rarely sufficient to determine historic eligibility of an area because many historic resources are often located underground. EPA should provide reasonable guidance worded specifically to shield permittees from liability.

Response d: EPA believes that, for existing dischargers who do not need to construct BMPs for permit coverage, a simple visual inspection may be sufficient to determine whether historic properties are affected. However, for facilities which are new industrial storm water dischargers and for existing facilities which are planning to construct BMPs for permit eligibility, applicants should conduct further inquiry to determine whether historic properties may be affected by the storm water discharge or BMPs to control the discharge. In such instances, applicants should first determine whether there are any historic properties or places listed on the National Register or if any are eligible for listing on the register (*e.g.,* they are ''eligible for listing''). Thus, the Agency does not imply that a visual inspection is always sufficient. In instances of uncertainty, the permittee is encouraged to consult with authorities who can advise on the likelihood of historic properties above or below ground.

Given the Agency's obligation to comply with the NHPA and its efforts to coordinate that obligation with the implementation of general permits, the historic preservation-related eligibility restrictions cannot provide an ironclad shield from liability. The permit guidance provides a common sense approach to an historic property assessment. Facility operators are encouraged to consult with local authorities who can advise on the likelihood of historic properties at the facility.

Comment e: Portions of the text are reproduced and other portions not reproduced in columns 1 and 2 of page 17018 of the notice. See 65 F.R. at 17018. Due to this problem, the commenter is unable to provide any comments on EPA's proposed new changes to the MSGP since he is uncertain what EPA intends or proposes. The commenter suggests that EPA fix the language related to the proposed MSGP and re-issue that correction for public review and comment.

Response e: EPA apologizes for the typing error which resulted in a number of sentences being listed twice on p. 1018. Despite this confusion, EPA believes the intent of the section is clear and does not require reproposal.

Section V.B Endangered Species

Comment a: The term ''unacceptable effects'' is used almost interchangeably with ''likely to adversely affect'' (See 65 Fed. Reg. 17051), which is similarly undefined in the permit and in pertinent regulation. The correct term for purposes of ESA compliance is the ''no jeopardy'' standard set forth in Section 7 of the ESA (17 U.S.C § 1536(a)(2)).

Response a: EPA agrees with the commenter regarding the term ''avoid unacceptable effects.'' Therefore, EPA has deleted the term and uses the ''no jeopardy'' language as stated in part 1.2.3.6.6.

Comment b: The definition of ''discharge-related activities'' is so all-encompassing that it could include virtually all activities at a mine, from drilling and blasting to loading, hauling and dumping and equipment maintenance, in addition to any activities that are part of a Storm Water Pollution Prevention Plan (SWPPP). There is no justification for a requirement to certify ESA compliance for all of these activities in order to obtain coverage under the MSGP. This requirement clearly exceeds EPA's authority under the Clean Water Act.

Response b: The endangered species provision covers only those activities that are associated with storm water industrial activity. The phrase ''discharge-related activities'' is intended to clarify that EPA considers a broad range of activities related to storm water discharges to be covered by the permit and, therefore, subject to ESA and NHPA provisions. This broader list of activities could result in environmental impairment if not addressed through a SWPPP. Since the permit covers this broad range, and EPA's permit authority is subject to ESA provisions, then this broader range of activities is subject to the ''no jeopardy'' finding. BMPs, whether already in place or added, which serve to satisfy the criteria for coverage under the MSGP, are thus subject to the endangered species provisions.

Comment c: While transitional discharge authorization is available for up to 270 days from the date of publication of the permit in the **Federal Register**, that transitional coverage is only available if the permittee submits an application for an alternative permit (most likely an individual permit) within 90 days after publication. Since formal Section 7 consultation is nominally a 135-day process (as stated in the Construction General Permit, see 63 Fed. Reg. 7872), permittees, in order to ensure continuous coverage, would be required to prepare and submit an application for an individual permit before they knew whether they were eligible for coverage under MSGP–2000. This is an unnecessary burden, on both the permittee and the agency. EPA should extend these time limits—for submission of an application for an alternative permit to 180 days, and for transitional coverage to one year.

Response c: EPA will retain the requirement that all applicants must submit their Notice of Intent (NOI) in 90 days. Those applicants who are entering into endangered species consultations or adverse impact investigations could apply for extensions up to 180 days and be covered by an interim permit until their application is completed. EPA believes that 270 days is a sufficient period to conduct and conclude this consultation and take whatever action is necessary to ensure continued permit coverage. The County Species list is available on EPA's web site or by contacting a local official. EPA will update its web site list every 90 days.

Comment d: EPA indicates that the proposed species-related requirements could change, before final issuance, based on consultation with the Fish and Wildlife Service. The public will not have an opportunity to participate in that process, including through commenting on any additional requirements suggested by the Service. If the Service does suggest any substantial changes in MSGP–2000, the public should have an opportunity to review and comment on those changes before EPA makes a decision as to whether to incorporate them into the final permit.

Response d: There are no changes to these provisions as a result of NHPA and ESA consultations, except that, based on comments to the proposed permit, EPA has deleted the inclusion of proposed species on the endangered species list.

Comment e: The duty triggered by the section of the Endangered Species Act (ESA) upon which EPA relies falls not upon the discharger but upon EPA. Thus under EPA's proposal, it would be EPA's duty to assess the impact of each discharger applying for coverage, and if this provision is not removed, EPA loses the benefit of the general permit. The action of adopting the general permit itself triggers EPA's duty, and so EPA, not the discharger, must assess ESA impacts now, not after the fact of the permit.

Response e: EPA is bound by the ESA and attempted to coordinate general permit implementation with its ESA obligations. Authorization to discharge under the MSGP is a privilege which carries with it certain procedural and timing advantages for the permittee. Therefore, it is incumbent upon the permittee, not EPA, to conduct whatever investigations and consultations are necessary to satisfy the ESA-related eligibility provisions. Since EPA cannot predetermine which facilities will apply for coverage under the MSGP, it is impossible for EPA to conduct the site-specific assessments required under the ESA at the time of general permit issuance.

Comment f: Despite previous consultation on the problems of earlier MSGP drafts, certain problems persist, including the gray area language that has fueled citizen suits against permittees. Not only has the agency failed to adequately address this issue, it has increased the liability potential by increasing the requirements for permittees to comply with other agency rules. EPA should clarify language to eliminate the potential for liability for permittees and should reduce the cost and paperwork burdens for compliance with ESA and NHPA.

Response f: Given the operation of the regulatory innovation, the ''general permit,'' EPA cannot provide an ironclad shield from liability in the way the commenter proposes. The permit guidance provides a common sense approach to endangered species and historic property assessments. Facility operators are encouraged to consult with local authorities who can advise on the likelihood of endangered or threatened species, critical habitat, or historic properties at the facility. EPA believes the additional burden associated with the expanded NOI form is minimal because permittees are required to make the findings which are reflected on the form. The additional information provides greater assurance that the assessment has been conducted, but does not in itself constitute the requirement for the assessment. EPA acknowledges that, until such time as the revised form has been cleared by OMB, permittees will continue to use the current NOI form (as modified slightly to conform to changes made elsewhere to the permit).

Comment g: The endangered species section of the permit relating to endangered species is cumbersome and appears to go beyond the intent of the Clean Water Act and beyond the EPA's authority set in the CWA.

Response g: EPA acknowledges the comment, but disagrees. EPA believes these provisions are essential to carry out its responsibility not to issue a permit which could jeopardize an endangered or threatened species, or critical habitat. EPA has consulted with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to ensure compliance with the Endangered Species Act. The ''discharge-related activities'' restriction on eligibility also implements the Agency's obligations under NHPA Section 106.

Comment h: The permit should clarify that coverage of the MSGP, and certification by the permittee, need address only new impacts resulting from new changes in operations for which discharges are covered and authorized by the MSGP. In other words, the ''baseline'' for assessment of effects or impacts should be the date of reissuance of the MSGP or, if later, initiation of new activities to be covered by the MSGP.

Response h: All activities covered by the permit, whether new or existing, are subject to the provisions. It is inappropriate to interpret that these provisions apply only to new activities.

Comment i: The endangered species section suggests that a potential permittee utilize ''due diligence'' in determining whether or not a potential impact to an endangered or threatened species may exist. This language is too vague and subjective—differing interpretations what constitutes due diligence exist. This is particularly true when dealing with an issue as complex as impact to endangered species or their habitats, where the expertise necessary to make this determination is usually beyond the reach of most industrial operators. It is likely that this could become the focal point of efforts to block permit issuance by those with differing agendas. Further clarification of what is required under ''due diligence'' is required.

Response i: EPA believes that the language must provide flexibility to reflect the case-by-case decisions which must be made. In response to the commenter's concern, EPA has replaced the ''due diligence'' phrase with ''best judgment.'' Consultations with local endangered species officials is advised if the permittee is uncertain how to apply these provisions to his facility.

Comment j: Only those species that have been listed should be identified on this list and used in the determination of permit coverage; not those that have not gone through the entire listing process.

Response j: EPA acknowledges the comment and has revised the language to exclude proposed listing requirements.

Comment k: In this section, an applicant is expected to determine whether endangered species are ''in proximity'' to the stormwater discharges or discharge-related activities at the facility. In proximity is described as being ''in the path or down gradient'' or in the ''immediate vicinity of or nearby,'' the facility. These definitions are far too vague, and could refer to the presence of species located a considerable distance from a facility, not merely those located close enough to a facility to be affected by that facility's stormwater discharge. This section requires clanfication.

Response k: EPA has retained this language from the 1995 MSGP. EPA believes that the language must provide flexibility to reflect the case-by-case decisions which must be made. Consultations with local endangered species officials is advised if the permittee is uncertain how to apply these provisions to his facility.

Comment l: This section provides that ''where there are concerns that coverage for a particular discharger is not sufficiently protective of listed species (and presumably those proposed for listing as well) the Services (as well as any other interested parties) may petition EPA to require that the discharger obtain an individual NPDES permit and conduct an individual section 7 consultation as appropriate.'' It is clear that this will provide ample opportunity to those who would seek to delay or deny permit issuance, even in those circumstances where an actual impact to species or habitat does not exist. This procedure should be a formal one in which the permit remains in force until EPA, after careful and rigorous scientific evaluation of the potential impact, determines whether or not an impact exists and, if so, whether or not an alternative permit is warranted.

Response l: Opportunity for public input is an essential component of any government regulatory program. As the commenter suggests, the permit would remain in effect until such time as EPA

concludes that the activity is no longer eligible for coverage under the permit.

Section V.C 303(d)

Comment a: Several commenters challenged Parts 1.2.3.8. of the permit because they believe it inaccurately applies 40 CFR 122.4(i) regarding compliance with water quality standards to discharges covered by a general permit. Several commenters believe that one doesn't have to consider 40 CFR 122.4(i) if they only add an outfall and similarly one commenter believes that new dischargers under Phase 2 do not have to consider 40 CFR 122.4(i). Commenters stated that any provisions added to the reissued MSGP regarding impaired waters or TMDLs are premature until the new TMDL rule is final. It seems that the major concern is that previously unpermitted discharges would be disallowed coverage under this Part.

Response a: EPA, in Sections 1.2.3.8.1 and 1.2.3.8.2, was merely conditioning a discharger's eligibility for coverage under the MSGP upon meeting certain existing conditions and requirements in EPA's NPDES regulations which apply in all applicable circumstances involving both individual and general permits. In doing so, EPA intended to merely restate those existing conditions and requirements as eligibility requirements under the MSGP. Specifically, EPA's intention in section 1.2.3.8.1 was to condition a new discharger's eligibility for coverage under the MSGP upon meeting the existing regulatory conditions under 40 CFR 122.4(i). A new discharger, therefore would not be eligible for coverage under the MSGP if its discharge would ''cause or contribute to a violation of a water quality standard.'' As mentioned, this regulation is applicable to all new dischargers irrespective of the type of permit they are seeking coverage under; there is no language in this regulation that exempts new dischargers seeking coverage under a general permit. EPA, in section 1.2.3.8.1 of the MSGP, did not intend to create any confusion or change any existing interpretation of the current regulatory language referred to in that section. To avoid confusion EPA is therefore amending the language in section 1.2.3.8.1 to state that ''you are not authorized to discharge if your discharge is prohibited under 40 CFR 122.4(i).''

EPA's intention in section 1.2.3.8.2 was to condition a discharger's eligibility for coverage under the MSGP upon meeting the existing regulatory requirements under existing 40 CFR 122.44(d)(1)(vii)(B). This section of EPA's regulations requires permitting authorities to develop effluent limits in permits that are ''consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA pursuant to 40 CFR 130.7'' (EPA's existing TMDL regulations). This requirement applies to all NPDES permits both individual and general permits.

Comment b: One commenter expressed confusion about what is meant by ''new discharges'' as this term is not defined in 40 CFR 122.2.

Response b: The final permit will omit the term ''new discharge'' since it is not necessary for the requirement and it has caused confusion. Today's permit will change the term ''new discharge'' to simply ''discharge'' in the first sentence of Part 1.2.3.8.1.

Comment c: Eligibility restrictions of the permit should be limited to those discharges of pollutants actually listed in a TMDL.

Response c: Section 1.2.3.8.2 of the MSGP contains the eligibility requirement that discharges be consistent with an EPA established or approved TMDL. EPA agrees with the commenter's suggestion that Section 1.2.3.8.2 should clearly state that such requirement is only applicable to facilities discharging the pollutant for which the TMDL is established. EPA is therefore, adding this language to Section 1.2.3.8.2.

Comment d: Discharges to 303(d) listed or 303(e) listed waters should be monitored for contaminants that impair or threaten water quality; however, monitoring requirements should be relaxed for other contaminants that do not impair or threaten receiving water quality. Several commenters wanted either exclusive or additional monitoring of discharges to impaired waters for pollutants of concern in lieu of the eligibility requirements based on whether or not a facility causes or contributes to the impairment.

Response d: EPA acknowledges that the MSGP may not contain monitoring requirements for a pollutant for which a waterbody is listed as impaired. This does not eliminate the burden of the discharger in determining that its effluent does not cause or contribute to a violation of water quality standards. Section 1.2.3.8.1 in the MSGP is an eligibility provision which restates existing regulatory requirements, it does not create new restrictions on any dischargers. If a discharger cannot meet the eligibility requirements, then that discharger is not authorized to discharge under the MSGP. Under existing regulations, EPA has the discretion to establish whatever eligibility requirements that it believes are appropriate. Section 1.2.3.8.1 is an eligibility provision that does no more than restate existing regulatory requirements as a condition of being authorized to discharge under the permit. It does not dictate, establish or restrict the use of any particular framework, effluent limits or permit conditions within the permit itself or describe or restate any new interpretation of the underlying regulations which it refers to.

Comment e: Several commenters were not clear how to determine or implement loadings imposed by TMDLs. Further they requested that loadings based on the TMDL be excluded from the MSGP and addressed separately so that the regulated community could have an opportunity to comment on them. One commenter stated that the eligibility requirement of Part 1.2.3.8. is not appropriate because there was no opportunity to comment on the TMDL.

Response e: It is not necessary that all dischargers receive individual wasteload allocations. EPA's regulations at 40 CFR 130.2 define a wasteload allocation as the portion of the receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. EPA has interpreted this regulation to mean that each point source must be given an individual wasteload allocation when it is feasible to calculate such a wasteload allocation. EPA believes that states may find it infeasible to calculate individual wasteload allocations for all point sources covered by a specific general permit. In that case, the TMDL would establish individual wasteload allocations for dischargers subject to individual permits whereas dischargers subject to a general permit would be accounted for in the aggregate under a single wasteload allocation specific to the general permit under which they are authorized to discharge.

In addition, wasteload allocations can be expressed in different ways, including, percent loading reductions. See 40 CFR 130.2(i) ''* * * TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measures. * * *'' Effluent limitations must be consistent with (but not identical to) the wasteload allocations in TMDLs. See 40 CFR 122.44(d)(1)(vii)(B). Effluent limitations for point source discharges of storm water may be narrative limitations that are expressed in terms of best management practices (BMPs). This policy is consistent with EPA's approach in its Interim Permitting

Approach For Water Quality-Based Effluent Limitations in Storm Water Permits (September 1996, EPA 833–D–96–001). This interim approach allows limits to be expressed in the form of BMPs as a means of satisfying the requirement that limits derive from and comply with water quality standards and are consistent with an EPA approved or established TMDL.

All dischargers who discharge the pollutant for which the waterbody is impaired must be accounted for in the TMDL. Every point source discharger located on the impaired waterbody and discharging the pollutant for which the waterbody is impaired must be accounted for under a wasteload allocation. The State may choose, however, to give a discharger a wasteload allocation that would not require any reduction in loading. In other words, all facilities discharging the pollutant for which the waterbody is impaired must be subject to a wasteload allocation but all facilities subject to a wasteload allocation may not be required to reduce their loads.

Comment f: Several commenters requested guidance on how to adequately evaluate a discharge's eligibility under Part 1.2.3.8 and 1.2.3.9 of the permit.

Response f: EPA intends the analysis to be similar to what a permittee under the previous MSGP had to do in accordance with Part I.B.3.f. of that permit. The applicant must avail himself of all discharge characterization data or estimation of discharge character and determine compliance. If the permittee is able to evaluate eligibility on his own because he has access to State Water Quality Standards, 303(d) lists, TMDLs etc. (all of which are available either from the permit issuing authority or in some cases, online) then he can make his determination, document the determination process in his pollution prevention plan, and sign the NOI. In other cases, the Director may notify him that he is not eligible for coverage if such a determination is made independently, and may require an application for an individual permit.

Comment g: One commenter requested confirmation that Part 1.2.3.8.1 applies to facilities constructed after August 13, 1979 that have not yet been issued an NPDES permit.

Response g: Part 1.2.3.8.1 applies to discharges, not facilities, that have begun after August 13, 1979 that have not yet been authorized by an NPDES permit.

Section V.D—Antidegradation

Comment a: The proposed requirements do not accurately reflect States' anti-degradation policy. Commenters stated that anti-degradation does not hold a permittee accountable until a State's policy is interpreted into a permit. The State's review of the general permit under the CWA 401 is the extent of applicable anti-degradation review. Therefore, delete Part 1.2.3.9. since an individual discharger applying for general permit coverage cannot determine how the State's anti-degradation policy, especially regarding the Tier 2 ''high quality water'' provisions, will be implemented at a particular facility.

Response a: EPA, in Sections 1.2.3.8.1 and 1.2.3.8.2, was merely conditioning a discharger's eligibility for coverage under the MSGP upon meeting certain existing conditions and requirements in EPA's NPDES regulations which apply in all applicable circumstances involving both individual and general permits. In doing so, EPA intended to merely restate those existing conditions and requirements as eligibility requirements under the MSGP. Specifically, EPA's intention in section 1.2.3.8.1 was to condition a new discharger's eligibility for coverage under the MSGP upon meeting the existing regulatory conditions under 40 CFR 122.4(i). A new discharger, therefore would not be eligible for coverage under the MSGP if its discharge would ''cause or contribute to a violation of a water quality standard.'' As mentioned, this regulation is applicable to all new dischargers irrespective of the type of permit they are seeking coverage under; there is no language in this regulation that exempts new dischargers seeking coverage under a general permit. EPA, in section 1.2.3.8.1 of the MSGP, did not intend to create any confusion or change any existing interpretation of the current regulatory language referred to in that section. To avoid confusion EPA is therefore amending the language in section 1.2.3.8.1 to state that ''you are not authorized to discharge if your discharge is prohibited under 40 CFR 122.4(i).''

EPA acknowledges that the MSGP may not contain monitoring requirements for a pollutant for which a waterbody is listed as impaired. This does not eliminate the burden of the discharger in determining that its effluent does not cause or contribute to a violation of water quality standards. Section 1.2.3.8.1 in the MSGP is an eligibility provision which restates existing regulatory requirements, it does not create new restrictions on any dischargers. If a discharger cannot meet the eligibility requirements, then that discharger is not authorized to discharge under the MSGP. Under existing regulations, EPA has the discretion to establish whatever eligibility requirements that it believes are appropriate. Again, section 1.2.3.8.1 is an eligibility provision that does no more than restate existing regulatory requirements as a condition of being authorized to discharge under the permit. It does not dictate, establish or restrict the use of any particular framework, effluent limits or permit conditions within the permit itself or describe or restate any new interpretation of the underlying regulations which it refers to.

EPA's intention in section 1.2.3.8.2 was to condition a discharger's eligibility for coverage under the MSGP upon meeting the existing regulatory requirements under existing 40 CFR 122.44(d)(1)(vii)(B). This section of EPA's regulations requires permitting authorities to develop effluent limits in permits that are ''consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA pursuant to 40 CFR 130.7'' (EPA's existing TMDL regulations). This requirement applies to all NPDES permits both individual and general permits.

Wasteload allocations can be expressed in different ways, including, percent loading reductions. See 40 CFR 130.2(i) ''* * *TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measures * * *.'' Effluent limitations must be consistent with (but not identical to) the wasteload allocations in TMDLs. See 40 CFR 122.44(d)(1)(vii)(B). Effluent limitations for point source discharges of storm water may be narrative limitations that are expressed in terms of best management practices (BMPs). This policy is consistent with EPA's approach in its Interim Permitting Approach For Water Quality-Based Effluent Limitations in Storm Water Permits (September 1996, EPA 833–D–96–001). This interim approach allows limits to be expressed in the form of BMPs as a means of satisfying the requirement that limits derive from and comply with water quality standards and are consistent with an EPA approved or established TMDL.

The commenter correctly recognizes the difficulty in determining what defines ''necessary to accommodate important economic or social development'' in accordance with 40 CFR Section 131.12(a)(2). By statute, this determination involves public participation, the assurance that water quality will be protected, and several other factors. EPA would have to modify

the permit for each discharge in question in order to comply with 40 CFR Section 131.12(a)(2). Individual considerations such as these are contrary to the concept of a general permit. In addition, public participation would be impossible since the permit issuing authority would not know about the particular discharge to tier 2 waters before a NOI was submitted. Therefore, a facility operator must seek coverage under an individual permit to discharge to tier 2 waters under 40 CFR Section 131.12(a)(2)'s allowable degradation provisions to satisfy the requirements for public participation and protection of water quality. The only discharges allowed coverage under today's permit are those which do not degrade the use of a tier 2 water below its existing levels, even though those existing levels exceed levels necessary to support propagation of fish, shellfish and wildlife and recreation in and on the water.

Comment b: While the eligibility requirements disallow the discharge to cause and contribute to the impaired water, the permit doesn't require monitoring for the pollutant of concern. This presents the potential for the permit issuing authority to determine that a discharge causes or contributes at a later date than the submittal of the NOI, effectively creating a violation of the permit without the permittee being able to know of it or prevent it.

Response b: There will be situations where an NOI is accepted by the permit issuing authority and coverage provided to a facility that did not meet the eligibility requirements. Other situations include changes, such as the approval of a TMDL, which may cause a discharge to no longer be eligible. Upon learning of these types of situations, the Director may either require the permittee to submit an application for an individual NPDES permit, take an enforcement action, allow the facility to eliminate the concern, or any combination of these actions.

Comment c: The eligibility requirements require the permittees to predict the final requirements of the TMDL rule and the final loadings of TMDLs approved in the future. Part 1.2.3.8.1 shouldn't be included in the permit because it inaccurately applies 122.4(i) to general permittees.

Response c: EPA, in Sections 1.2.3.8.1 and 1.2.3.8.2, was merely conditioning a discharger's eligibility for coverage under the MSGP upon meeting certain existing conditions and requirements in EPA's NPDES regulations which apply in all applicable circumstances involving both individual and general permits. In doing so, EPA intended to merely restate those existing conditions and requirements as eligibility requirements under the MSGP. Specifically, EPA's intention in section 1.2.3.8.1 was to condition a new discharger's eligibility for coverage under the MSGP upon meeting the existing regulatory conditions under 40 CFR 122.4(i). A new discharger, therefore would not be eligible for coverage under the MSGP if its discharge would ''cause or contribute to a violation of a water quality standard.'' As mentioned, this regulation is applicable to all new dischargers irrespective of the type of permit they are seeking coverage under; there is no language in this regulation that exempts new dischargers seeking coverage under a general permit. EPA, in section 1.2.3.8.1 of the MSGP, did not intend to create any confusion or change any existing interpretation of the current regulatory language referred to in that section. To avoid confusion EPA is therefore amending the language in section 1.2.3.8.1 to state that ''you are not authorized to discharge if your discharge is prohibited under 40 CFR 122.4(i).''

EPA's intention in section 1.2.3.8.2 was to condition a discharger's eligibility for coverage under the MSGP upon meeting the existing regulatory requirements under existing 40 CFR 122.44(d)(1)(vii)(B). This section of EPA's regulations requires permitting authorities to develop effluent limits in permits that are ''consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA pursuant to 40 CFR 130.7'' (EPA's existing TMDL regulations). This requirement applies to all NPDES permits both individual and general permits.

Comment d: The final permit needs to be clear that the requirements of Part 1.2.3.8.2 only apply to the pollutant of concern in the TMDL actually being discharged by the facility. This idea is in Part 1.2.3.8.1. and should be included in 1.2.3.8.2 as well. Similarly, EPA should lift the new source and new discharger restrictions if there is not a storm water component of the approved TMDL. The final permit should clarify that a facility may not have a specific allocation in an approved TMDL and as such may still be eligible for the general permit.

Response d: Section 1.2.3.8.2 of the MSGP contains the eligibility requirement that discharges be consistent with an EPA established or approved TMDL. EPA agrees with the commenter's suggestion that Section 1.2.3.8.2 should clearly state that such requirement is only applicable to facilities discharging the pollutant for which the TMDL is established. EPA is therefore, adding this language to Section 1.2.3.8.2.

Comment e: The eligibility requirements in Part 1.2.3.9 defeat the concept of efficiency of a general permit and should be removed. EPA does not have the authority to require the applicant to assess if they support the use classification of the receiving water because it increases the cost of applying for general permit coverage which has not been evaluated by EPA under the Unfunded Mandates Reform Act. Furthermore, the duty to determine whether or not a discharge supports the use classification of a receiving water is the permit issuing authority's responsibility.

Response e: The concept of the general permit is to reduce the administrative burden on EPA and the regulated community by issuing one permit for many facilities that would otherwise all have exactly the same conditions in their individual permits. If a facility is not like other ones where it would have different permit conditions it should not apply for the general permit in question. This general permit only applies to facilities that support the use classification of the receiving waters. If they do not, EPA is not obligated to change the general permit to include them. The applicant must seek alternate permit coverage. It is the permit issuing authority's responsibility to ensure that the conditions of the general permit support use classifications. It is not their responsibility to ensure that each individual discharge authorized by the permit supports the use. The eligibility requirements are there to indicate the type of facility that can be covered under the permit. The efficiency intended by a general permit is to reduce the number of individual permits and to make application for NPDES permit easier for those who qualify for the coverage under the general permit.

Comment f: The final permit needs to be clear that a facility may not have a specific allocation in an approved TMDL and as such may still be eligible for the general permit.

Response f: EPA agrees in part with the commenter that there may be circumstances under which it is not necessary that all dischargers receive individual wasteload allocations. EPA's regulations at 40 CFR 130.2 define a wasteload allocation as the portion of the receiving water's loading capacity that is allocated to one of its existing or

future point sources of pollution. EPA has interpreted this regulation to mean that each point source must be given an individual wasteload allocation when it is feasible to calculate such a wasteload allocation. EPA believes that states may find it infeasible to calculate individual wasteload allocations for all point sources covered by a specific general permit. In that case, the TMDL would establish individual wasteload allocations for dischargers subject to individual permits, whereas dischargers subject to a general permits would be accounted for in the aggregate under a single wasteload allocation specific to the general permit under which they are authorized to discharge.

Comment g: Lift the new source/new discharger restriction if there is not a storm water component of the approved TMDL.

Response g: EPA, in Sections 1.2.3.8.1 and 1.2.3.8.2, was merely conditioning a discharger's eligibility for coverage under the MSGP upon meeting certain existing conditions and requirements in EPA's NPDES regulations which apply in all applicable circumstances involving both individual and general permits. In doing so, EPA intended to merely restate those existing conditions and requirements as eligibility requirements under the MSGP. Specifically, EPA's intention in section 1.2.3.8.1 was to condition a new discharger's eligibility for coverage under the MSGP upon meeting the existing regulatory conditions under 40 CFR 122.4(i). A new discharger, therefore would not be eligible for coverage under the MSGP if its discharge would ''cause or contribute to a violation of a water quality standard.'' As mentioned, this regulation is applicable to all new dischargers irrespective of the type of permit they are seeking coverage under; there is no language in this regulation that exempts new dischargers seeking coverage under a general permit. EPA, in section 1.2.3.8.1 of the MSGP, did not intend to create any confusion or change any existing interpretation of the current regulatory language referred to in that section. To avoid confusion EPA is therefore amending the language in section 1.2.3.8.1 to state that ''you are not authorized to discharge if your discharge is prohibited under 40 CFR 122.4(i).''

Section V.E Discharges Not Previously Covered by an Individual Permit

Comment: One commenter requested clarification of the permit requirement at Part 1.2.3.3.2.3 to include any specific storm water BMPs from the old individual permit in the Storm Water Pollution Prevention Plan when transferring from an individual permit to the MSGP. The commenter interpreted this condition to mean that only those specific storm water BMPs from the old individual permit (and areas associated with outfalls from the old permit) needed to be included in the Plan, and noted an apparent inconsistency on page 17021, Item F, of the preamble which states that the Plan must address the entire facility.

Response: When transferring from an individual permit to the MSGP, the requirement at Part 1.2.3.3.2.3 to include any specific storm water BMPs from the old individual permit in the Storm Water Pollution Prevention Plan is in addition to and not in lieu of the basic requirements in Part 4. However, the BMPs brought over from the old individual permit may satisfy one or more of the ''basic'' Storm Water Pollution Prevention Plan requirements under Part 4 and/or the sector-specific requirements under Part 6. There could be areas at a facility (*e.g.,* employee parking lots) that do not need to be addressed under the permit (and SWPPP) unless the runoff from such areas commingles with storm water associated with industrial activity (or was previously permitted).

Section VI.A Notification Requirements

Comment a: The commenter supported the use of electronic filing of NOIs, but expressed concern that facilities without Internet access would be at a disadvantage.

Response a: It is not the intention of EPA to only accept electronic submittals. Electronic submittal is another alternative which, hopefully, will be available to the regulated community in the near future.

Comment b: The commenter does not support any changes to the NOI form, and expects any changes to comply with the Paperwork Reduction Act.

Response b: Any changes to the NOI form that result in an increase in burden for the applicant must first be reviewed and approved by the Office of Management and Budget. Part of this review includes compliance with the requirements of the Paperwork Reduction Act. Changes to the NOI form published in today's permit were limited to those that provide clarification in information, as well as those changes that reflect changes in the storm water permits issued by EPA. EPA has determined that these changes do not represent an increase in burden for completing the NOI form. As noted in Section 2.2, the more extensive changes listed in the March 30, 2000 proposal need to complete their OMB review before they can be included in the NOI form.

Comment c: A commenter supported inclusion of the no exposure certification form as an addendum to the MSGP–2000.

Response c: EPA agrees that providing the form with the permit is a convenience for facilities qualifying for the no exposure exemption. The certification form is an addendum to the permit.

Section VI.B Special Conditions

Comment a: The Agency is shifting its responsibility regarding meeting minimum technology standards in NPDES permits to the discharger.

Response a: EPA expects that when a facility submits an NOI they are familiar with both the permit and their facility. They should be able to determine their eligibility. The permitting authority may concur with the facility's assessment, or not. EPA does not believe that it has shifted its responsibility on this matter.

Comment b: There was a request to clarify the requirements in the MSGP–2000 regarding co-located facilities.

Response b: A facility is considered co-located if there is a second industrial activity occurring which meets the definition of storm water discharge associated with industrial activity. For example, a facility operates an auto salvage yard and also has an area onsite for scrap recycling. The facility as a whole would meet the requirements for Sector M—Auto salvage. The area where scrap recycling occurs would meet the requirements for Sector N—Scrap Recycling. Any storm water discharges from the scrap recycling area needs to meet the requirements for both sectors. The second activity may or may not be related to the primary industrial activity. The determination as to whether something is co-located rests in the definition of storm water discharges associated with industrial activity. If a second activity exists at a facility which meets one of the categories in the definition, then the facility has co-located industrial activities.

Section VI.C Common Pollution Prevention Plan Requirements

Comment a: A commenter expressed concern about various interpretations and implementation of the storm water program, including incorporation of effluent limits, and stressed ''* * * It is imperative that the Agency maintains that SWPPP requirements be interpreted and implemented in a practicable and economically feasible manner.''

Response a: EPA believes that proper implementation of storm water BMPS

will achieve compliance with water quality standards. EPA is responsible for implementation of the storm water program in eight states, various territories, including Puerto Rico and District of Columbia; and various Indian Country lands throughout the country. For the remaining 42 states, the state agency is responsible for program implementation. They have the authority to interpret and implement the program as appropriate for their state. It continues to be EPA's policy not to include effluent limitations in storm water permits. However, a state may choose to follow a different policy than EPA's.

Comment b: There is not a specific mention of catch basin inserts or fillers on the listing of BMPs.

Response b: In discussions concerning BMPs, EPA attempted to provide some examples of various types of BMPs. By no means is the listing intended to be all inclusive. EPA acknowledges that there are other BMPs, such as catch basin inserts or fillers, that were not mentioned in discussions but may be appropriate in various circumstances.

Section VI.E Monitoring and Reporting Requirements

Comment a: Monitoring results are an unreliable indicator of a discharge problem and they do not provide confirmation of a problem. Permittees cannot use results to support facility management.

Response a: EPA believes that since analytic monitoring has been performed by substantial numbers of permittees only during the fourth year of the 1995 MSGP (many facilities complying with monitoring requirements in the fourth year were covered under the earlier baseline general permit during the second monitoring year and, consequently, had no equivalent monitoring requirement), it is premature to make any final conclusions regarding the value of the Agency's acquisition of the monitoring data or to consider dropping the monitoring. In essence, the fourth-year monitoring data set EPA received represents the baseline of pollutant discharge information under the sector-specific industrial general storm water permit. Several rounds of monitoring significantly enhances the utility of the results for evaluating the effectiveness of management practices at the site as well as for the industry sector as a whole. EPA commits to using data from the 1995 and 2000 permits to evaluate the effectiveness of management practices on an industry sector basis and to evaluate the need for changes in monitoring protocols for the next permit.

EPA acknowledges that, considering the small number of samples required per monitoring year (four), and the vagaries of storm water discharges, it may be difficult to determine or confirm the existence of a discharge problem as a commenter claimed. When viewed as an indicator, analytic levels considerably above benchmark values can serve as a flag to the operator that his SWPPP needs to be reevaluated and that pollutant loads may need to be reduced. Conversely, analytic levels below or near benchmarks can confirm to the operator that his SWPPP is doing its intended job. EPA believes there is presently no alternative that provides stakeholders with an equivalent indicator of program effectiveness.

Comment b: Monitoring results are not necessarily an indicator of BMP effectiveness and EPA never justified that they are.

Response b: While not practicable for EPA to require an increase in monitoring, operators are encouraged to sample more frequently to improve the statistical validity of their results. Unless the proper data acquisition protocol for making a valid BMP effectiveness determination is rigorously followed, any other method used to assess BMP effectiveness would be qualitative, and therefore less reliable. The least subjective approach, and most beneficial to operators and stakeholders, EPA believes, remains a combination of visual and analytic monitoring, using analyte benchmark levels to target potential problems. Statistical uncertainties inherent in the monitoring results will necessitate both operators and EPA exercising best professional judgment in interpreting the results. When viewed as an indicator, analytic levels considerably above benchmark values can serve as a flag to the operator that his SWPPP needs to be reevaluated and that pollutant loads may need to be reduced. Conversely, analytic levels below or near benchmarks can confirm to the operator that his SWPPP is doing its intended job.

Comment c: Alternate test methods can be used for determining effectiveness of BMPs at a facility, and benchmarks will need modifying to account for variability in test methods.

Response c: A technically valid, deterministic investigation of BMP effectiveness would necessarily involve collecting discharge pollutant load data before and after the BMP. The constraints inherent in monitoring preclude requiring this kind of investigation. All other methods used to make an assessment of SWPPP/BMP effectiveness are qualitative. The least subjective approach, and most beneficial to operators and stakeholders, EPA believes, is a combination of visual and analytic monitoring, using analyte benchmark levels (or ''targets'') as an indicator of potential problems. Vagaries of storm discharges and statistical concerns will necessitate operators and EPA exercising best professional judgment in interpreting the results of any monitoring. When viewed as an indicator, analytic levels considerably above benchmark values can serve as a flag to the operator that his SWPPP needs to be reevaluated and that pollutant loads may need to be reduced. Conversely, analytic levels below or near benchmarks can confirm to the operator that his SWPPP is doing its intended job.

Comment d: (a) The presumption of an impact on water quality standards by storm water is inappropriate given the episodic nature of storms. (b) EPA recognizes that during a storm, water quality standards will not always be met, so EPA shouldn't rely on water quality standards at a discharge point to determine if a facility is in compliance. (c) Monitoring has marginal value in assessing and protecting water quality.

Response d: (a) It is true that many impacts of storm water are short-term and that many pollutants are not really toxic or bioaccumulative. A short term water quality standard violation is not necessarily going to persist long enough to be toxic. (b) In the absence of establishing discharge pollutant loads that correlate directly to a receiving water, as would be done for an individual permit, EPA settled on benchmark levels which would, under nearly all scenarios, be protective of water quality standards. Recognizing the shortcomings of these generic pollutant levels, EPA only intends for them to be used as indicators of possible problems and as a flag to reevaluate the SWPPP—not as a trigger to begin mandatory SWPPP or operational revisions unless, after employing BPJ, the operator deems such revisions are necessary. (c) While end-of-pipe/end-of-property analytic monitoring for storm water may not reflect potential impacts to water quality, EPA does not intend to use the data for that purpose.

Comment e: EPA needs to reevaluate the validity of benchmark values.

Response e: Universal benchmark levels cannot be established; the next best thing would be storm water pollutant loadings vis-a-vis water segment-specific TMDLs. But when used as a target or indicator, without requiring specific corrective actions beyond using BPJ to reassess present conditions and make any changes deemed necessary, the present

benchmarks are adequate. In specific situations operators may reasonably conclude, after analyzing monitoring results above benchmarks, their present SWPPPs/BMPs are adequately protective of water quality, or that other conditions such as discharging to low-quality, ephemeral streams may obviate the need for SWPPP/BMP revisions.

Comment f: Monitoring diverts resources from more effective implementation of SWPPPs. EPA should focus on pollution prevention, instead.

Response f: In developing the monitoring requirements, *i.e.,* pollutants of concern, monitoring waivers, etc., along with providing sampling and monitoring guidances, EPA endeavored to make the financial burden as minimal as possible. Four quarterly samples is a minimal data set for evaluating the effectiveness of SWPPPs. Those least able to afford expansive monitoring programs, *i.e.,* small businesses, likely have few outfalls to begin with. EPA believes that if monitoring is required at a facility, it should be planned for and budgeted as a cost of doing business.

Comment g: Permittees fear benchmark limits would be viewed as effluent limitations.

Response g: EPA agrees that benchmark limits are not effluent limitations and should not be used, in and of themselves, as the basis for issuing an enforcement violation.

Comment h: Storm water discharge variability can be caused by atmospheric/dry deposition, run on and fate in transport; facilities with structural leachate are at a disadvantage vis-a-vis those without the problem.

Response h: EPA acknowledges the potential for adding pollutants to a facility's discharges from external or structural sources. A permittee is, nonetheless, still legally responsible for the quality of all discharges from his/her site—but not from pollutants that may be introduced outside the boundaries of his/her property or the areas where his/hers structures, industrial activities or materials are located. Anything that increases the pollutant load in the runoff prior to leaving the site, whether originating from air deposition, run-on from nearby sites, or leachate from on-site structures, remains the responsibility of the permittee. This was affirmed in the ruling by the Environmental Appeals Board against the General Motors Corp. CPC-Pontiac Fiero Plant in December 1997.

Comment i: Allow pollutant credits for background sources of pollution.

Response i: Pollutant credits for background sources of pollution is unfeasible for storm water. Either EPA or the permittee would have to determine the pollutant loads of both the run-on and runoff to calculate pollutant credits. Resources are insufficient to implement this practice.

Comment j: Differences in monitoring results may result from changes in business conditions; changes in personnel doing monitoring can make observations/discharge examinations unreliable.

Response j: EPA published guidance on both monitoring and sampling procedures (available from EPA's Office of Water Resource Center) to standardize data collection practices.

Comment k: The same person cannot always do monitoring. Having to rely on different people is bad for consistency in recording observations and making discharge examinations.

Response k: EPA requires that personnel implementing the SWPPP be provided training as an element of the SWPPP. This training must cover program elements to ensure the quality and validity of all information collected.

Comment l: Sampling can be dangerous.

Response l: EPA provides waivers and options such that extreme weather or perilous conditions are accounted for.

Comment m: Determining whether a storm qualifies to be monitored is difficult.

Response m: EPA has always defined what constitutes a storm event worthy of monitoring. Modern weather forecasting is making it easier to anticipate and plan for qualifying storms.

Comment n: Monitoring in remote west or arid/semi-arid areas is difficult and burdensome.

Response n: EPA has always had accommodations and waivers for lack of qualifying storm events. See EPA Response o below.

Comment o: EPA should reduce analytic monitoring and visual monitoring based on average rainfall (similar to Phase II regulations).

Response o: EPA already allows permittees to skip monitoring in any quarter in which no qualifying storm events occur.

Comment p: Some discharges (in the west) occur only infrequently and sometimes only to isolated, ephemeral streams (which may have no indigenous biota).

Response p: Ephemeral streams may still eventually flow into permanent waters of the U.S.; hence, protective measures may still be needed to protect water quality. If there are truly no water quality standards established for an ephemeral stream and the outflow does not feed another water body, then it's likely there would not be a ''point source discharge'' and no permit would be required. Only those point source discharges to waters of the U.S. need to be included in a SWPPP.

Comment q: Continuation of monitoring is not justified, especially for mining sectors.

Response q: EPA believes that since analytic monitoring has been performed by substantial numbers of permittees only during the fourth year of the 1995 MSGP (many facilities complying with monitoring requirements in the fourth year were covered under the earlier baseline general permit during the second monitoring year and, consequently, had no equivalent monitoring requirement), it is premature to make any final conclusions regarding the value of the Agency's acquisition of the monitoring data or to consider dropping the monitoring. In essence, the fourth-year monitoring data set EPA received represents the baseline of pollutant discharge information under the sector-specific industrial general storm water permit. Several rounds of monitoring significantly enhance the utility of the results for evaluating the effectiveness of management practices at the site as well as for the industry sector as a whole. EPA commits to using data from the 1995 and 2000 permits to evaluate the effectiveness of management practices on an industry sector basis and to evaluate the need for changes in monitoring protocols for the next permit.

EPA acknowledges that, considering the small number of samples required per monitoring year (four), and the vagaries of storm water discharges, it may be difficult to determine or confirm the existence of a discharge problem as a commenter claimed. When viewed as an indicator, analytic levels considerably above benchmark values can serve as a flag to the operator that his SWPPP needs to be reevaluated and that pollutant loads may need to be reduced. Conversely, analytic levels below or near benchmarks can confirm to the operator that his SWPPP is doing its intended job. EPA believes there is presently no alternative that provides stakeholders with an equivalent indicator of program effectiveness.

Comment r: EPA has not provided guidance on monitoring snow melt events.

Response r: EPA does not have any specific guidance on this matter at the present time. Guidance may be developed in the future. In the interim, however, EPA believes that facilities should be able to obtain reasonably representative samples using their best judgment. Two important points must be considered to ensure the snow melt

sample is representative: (1) The melted runoff must come in contact with any pollutants of concern present and not be overly ''contaminated'' with concentrated surficial deposits of hydrocarbons, dirt, salt, etc., and (2) the melted runoff must have characteristics that approximate those of a monitor-qualifying rain storm (0.1 inch runoff volume, sampled within the first ½ up to 1 hour).

Comment s: (a) In addition to monitoring results, EPA should also require submission of a description of storm water controls being implemented. (b) EPA should require facilities to monitor for pollutants similar to what would be done under an individual permit (to ensure BMPs are being implemented). (c) Monitoring will aid the permittee, permitting authority and the public in understanding the sources and toxicity of storm water at a site.

Response s: (a) EPA already requires that all BMPs and other controls be described in the SWPPP, including inspections, maintenance, etc. Any BMP changes or additions must be added to an updated SWPPP, so EPA will not require this information be formally submitted. If EPA needs to inspect a facility or determine an enforcement issue, the facility's SWPPP will be reviewed for BMP information. (b) Customizing a facility's monitoring requirements is tantamount to writing an individual permit for the facility, which would require the same application package as for an individual permit. This is an option for those facilities where discharges or receiving waters are a concern but, otherwise, EPA believes the requirements of the present general permit with the identified pollutants of concern is sufficient for a large majority of facilities. (c) EPA agrees that monitoring can be used as an indicator of potential problems or toxicity concerns.

Comment t: Submit Discharge Monitoring Reports (DMRs) along with NOIs to prove compliance. If no DMRs were submitted under the current MSGP, require quarterly monitoring for all five years of MSGP–2000.

Response t: DMR and NOI submission deadlines have not coincided in the past and, from a regulatory perspective, it is not feasible to link them. Past instances of non-compliance are an enforcement issue with established penalties in the CFRs, but these instances do not automatically preclude future permit coverage nor can EPA include separate ''penalties'' such as 5-year monitoring in the permit for them.

Comment u: Analytic monitoring may be good for general info, which may be of use to the facility and regulatory agency, but it should not be required under the permit. Only visual monitoring should be required. One commenter indicated that analytic monitoring may be good for watershed-wide indications of general trends.

Response u: EPA believes that since analytic monitoring has been performed by substantial numbers of permittees only during the fourth year of the 1995 MSGP (many facilities complying with monitoring requirements in the fourth year were covered under the earlier baseline general permit during the second monitoring year and, consequently, had no equivalent monitoring requirement), it is premature to make any final conclusions regarding the value of the Agency's acquisition of the monitoring data or to consider dropping the monitoring. In essence, the fourth-year monitoring data set EPA received represents the baseline of pollutant discharge information under the sector-specific industrial general storm water permit. Several rounds of monitoring significantly enhance the utility of the results for evaluating the effectiveness of management practices at the site as well as for the industry sector as a whole. EPA commits to using data from the 1995 and 2000 permits to evaluate the effectiveness of management practices on an industry sector basis and to evaluate the need for changes in monitoring protocols for the next permit.

EPA acknowledges that, considering the small number of samples required per monitoring year (four), and the vagaries of storm water discharges, it may be difficult to determine or confirm the existence of a discharge problem. When viewed as an indicator, analytic levels considerably above benchmark values can serve as a flag to the operator that his SWPPP needs to be reevaluated and that pollutant loads may need to be reduced. Conversely, analytic levels below or near benchmarks can confirm to the operator that his SWPPP is doing its intended job. EPA believes there is presently no alternative that provides stakeholders with an equivalent indicator of program effectiveness. A technically valid, deterministic investigation of BMP effectiveness would necessarily involve collecting discharge pollutant load data before and after the BMP. The constraints inherent in monitoring preclude requiring this kind of investigation. All other methods used to make an assessment of SWPPP/BMP effectiveness are qualitative. Quarterly visual monitoring of storm water discharges has always been a permit requirement, for many of the same reasons why commenters favor it, and will continue to be so. The least subjective approach, and most beneficial to operators and stakeholders, EPA believes, is a combination of visual and analytic monitoring, using analyte benchmark levels (or ''targets'') as an indicator of potential problems. Variability of storm discharges and statistical concerns will necessitate operators and EPA exercising best professional judgement in interpreting the results of any monitoring.

Monitoring in impaired water bodies would focus attention on the problem water bodies and possible pollutant sources. However, not all impaired water bodies and their impairments have been determined. The goal of EPA's storm water program is also to protect and maintain water quality, not just remediate impaired waters, so focusing on impaired waters only does not fulfill all the program's responsibilities.

Comment v: If monitoring results are below the benchmark, facilities should not be required to monitor unless there are major changes to the facility.

Response v: Several rounds of monitoring significantly enhances the utility of the results for evaluating the effectiveness of management practices at the site as well as for the industry sector as a whole. EPA is keeping the monitoring requirement for all specified sectors at least one more time to provide stakeholders with continued assurance that SWPPPs are being implemented, concerted efforts to protect water quality are ongoing, and a mechanism is in place to indicate potential problems. The previous second year monitoring waiver for facilities with pollutant levels below the benchmark level is being retained.

Comment w: Substantially identical outfalls reduces burden and is beneficial to SWPPP implementation.

Response w: Noted.

Visual Monitoring

Comment x: Numerous commenters supported dropping analytic monitoring from the MSGP–2000 in favor of just requiring quarterly visual monitoring. Commenters claimed visual monitoring is adequate to ensure compliance and environmental protection (especially coupled with training), and is least burdensome.

Response x: Quarterly visual monitoring of storm water discharges has always been a permit requirement, for many of the same reasons why commenters favor it, and will continue to be so. EPA will also be retaining analytic monitoring because we believe the best way to ensure SWPPP effectiveness and protection of water

quality is through a combination of visual and analytic monitoring. The reasons for not adopting visual monitoring only are explained further in the rationale for justifying quarterly analytic monitoring.

Comment y: Operators need flexibility to collect representative samples for visual monitoring.

Response y: EPA believes the same representative sample reduction provided for analytic monitoring is inappropriate for the quarterly visual monitoring. A visual examination of all discharges is the least that operators can do to ensure all discharges are clean and would provide greater confirmation to themselves and other stakeholders that the representative discharge sample reduction claimed for analytic monitoring is, in fact, justified.

Comment z: Support visual monitoring with use of field test kits, which are cheaper and easier than 40 CFR 136.

Response z: Field test kits have not yet been confirmed as being as reliable as currently required analytical methods. Therefore, EPA is not allowing the use of kits in place of currently required analytical methods at this time.

Comment aa: Make visual evaluations standard.

Response aa: EPA has standard protocols for storm water sampling (the storm water sampling guidance can be obtained from EPA's Office of Water Resource Center at 202–260–7786) and the permit describes the examination procedures, parameters to be examined, meaning of results, etc.

Comment bb: Visual monitoring should be reduced commensurately in arid climates.

Response bb: EPA already allows permittees to document in their monitoring records that no discharge occurred during a monitoring quarter.

Annual Reporting

Comment cc: One option suggested by commenters was for an annual report, possibly using a standardized form, to be submitted to EPA detailing the permittee's SWPPP highlights and revisions/additions, inspections, compliance evaluations, visual monitoring results, etc. One comment against this option stated that the volume of data submitted would be too great for the Agency to evaluate. Other opponents to this option indicated that the reports would not contain enough information to evaluate SWPPP effectiveness, ensure water quality protection, or provide the information necessary to make long-term management plans. Commenters in support of the annual report concept held that it would provide a record of the permittee's commitment to storm water control, was better for evaluating SWPPP effectiveness, and would provide information to EPA to determine if sampling or a site inspection is needed.

Response cc: Information on SWPPP highlights and revisions/additions, inspections, compliance evaluations, visual monitoring results, etc. is already required to be documented in a facility's SWPPP, which, if deemed necessary, must be provided to EPA on demand. If no monitoring data were available, an annual report could be used to ensure that a facility is implementing its SWPPP. The reports could also be used to prioritize sites for inspection. However, EPA agrees that it would be very burdensome to review all the reports and very difficult to assess the effectiveness of a facility's SWPPP based on that review alone. The subjectivity inherent in annual reporting makes it an undesirable substitute for analytic monitoring. Documenting the kind of information in the annual report is already a SWPPP requirement and is, therefore, available to operators for assessing and improving their storm water programs. For these reasons, EPA will not require reports containing essentially the same information required in SWPPPs to be submitted in lieu of analytic monitoring.

Group Monitoring

Comment dd: Commenters also suggested group monitoring. In this option a consortium of like permittees would do sampling at one facility, possibly on a rotating basis. The sample results would represent all the facilities in the consortium. A variation of group monitoring is for the consortium to retain a consultant to do representative sampling and provide storm water program guidance and evaluations. Supporters of this concept said it may allow for comparisons of effectiveness of different SWPPP practices (*e.g.,* sweeping vs. catchment basin for solids control). One commenter pointed out that the feasibility of the group concept is suspect due to the fact that individual facilities may have different topography, soil and other natural conditions.

Response dd: EPA believes that technically valid BMP comparisons could be done under this type of program. However, it would be difficult and very resource-intensive for EPA to establish criteria for group eligibility and then monitor to ensure that groups met these criteria.

Watershed Monitoring

Comment ee: Commenters suggested conducting watershed monitoring rather than monitoring at the facility. This option involves replacing the monitoring of discrete storm water discharges with ambient receiving water monitoring on a watershed basis.

Response ee: Watershed monitoring is invaluable to making real conclusions regarding storm water impacts of water quality, and will be employed in making total maximum daily load (TMDL) determinations. However, watershed monitoring cannot replace facility-specific storm water discharge monitoring to determine the loads contributed by the facilities and to evaluate the effectiveness of the SWPPP.

Monitoring Only in Impaired Waters

Comment ff: Several commenters supported requiring monitoring only in impaired water bodies and for pollutants that cause the impairment.

Response ff: Although this option would focus attention on the problem water bodies and possible pollutant sources, EPA and a commenter point out that not all impaired water bodies and their impairments have been determined. The goal of EPA's storm water program is also to protect and maintain water quality, not just remediate impaired waters, so focusing on impaired waters only does not fulfill all the program's responsibilities.

Section VII Cost Estimates for Common Permit Requirements

Comment: EPA incorrectly estimated costs associated with the original MSGP. The new permit imposes even more costs. EPA must better estimate these costs, especially for small businesses. EPA should conduct a Regulatory Flexibility Analysis as well as perform a Small Business Regulatory Enforcement Fairness Act (SBREFA) consultation.

Response: The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute. Under section 605(b) of the RFA, however, if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, the statute does not require the agency to prepare a regulatory flexibility analysis.

The MSGP–2000 provides facilities the option of obtaining a general permit

rather than applying for individual permits; it does not extend coverage of the existing NPDES regulations. Therefore, the costs associated with obtaining a permit were already addressed when the NPDES regulations were issued. Furthermore, the MSGP–2000 is intended to reduce costs by providing a streamlined procedure for obtaining permit coverage. For these reasons, there was no requirement on EPA to conduct a separate analysis to support the MSGP–2000.

X. Economic Impact (Executive Order 12866)

Under Executive Order 12866 [58 FR 51735 (October 4, 1993)], the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that the reissued MSGP is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to formal OMB review prior to proposal.

XI. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' on State, local, and tribal governments and the private sector. UMRA uses the term ''regulatory actions'' to refer to regulations. (See, *e.g.,* UMRA section 201, ''Each agency shall * * * assess the effects of Federal regulatory actions * * * (other than to the extent that such regulations incorporate requirements specifically set forth in law)'' (emphasis added)). UMRA section 102 defines ''regulation'' by reference to 2 U.S.C. 658 which in turn defines ''regulation'' and ''rule'' by reference to section 601(2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines ''rule'' as ''any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of [the Administrative Procedure Act (APA)], or any other law * * *''

As discussed in the RFA section of this notice, NPDES general permits are not ''rules'' under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide ''an opportunity for a hearing.'' Thus, NPDES general permits are not ''rules'' for RFA or UMRA purposes.

EPA has determined that today's MSGP reissuance does not result in expenditures of $100 million or more for State, local and Tribal governments, in the aggregate, or the private sector in any one year.

The Agency also believes that the final MSGP will not significantly nor uniquely affect small governments. For UMRA purposes, ''small governments'' is defined by reference to the definition of ''small governmental jurisdiction'' under the RFA. (See UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) ''Small governmental jurisdiction'' means governments of cities, counties, towns, etc., with a population of less than 50,000, unless the agency establishes an alternative definition.

Today's final MSGP also will not uniquely affect small governments because compliance with the final permit conditions affects small governments in the same manner as any other entities seeking coverage under the final permit.

XII. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities resulting from the final MSGP under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of the MSGP have already been approved in previous submissions made for the NPDES permit program under the provisions of the CWA.

XIII. Regulatory Flexibility Act

The Agency has determined that the final MSGP being published today is not subject to the Regulatory Flexibility Act (''RFA''), which generally requires an agency to conduct a regulatory flexibility analysis of any significant impact the rule will have on a substantial number of small entities. By its terms, the RFA only applies to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (''APA'') or any other statute. Today's final MSGP is not subject to notice and comment requirements under the APA or any other statute because the APA defines ''rules'' in a manner that excludes permits. See APA section 551(4), (6), and (8).

APA section 553 does not require public notice and opportunity for comment for interpretative rules or general statements of policy. In addition to finalizing the new MSGP, today's notice repeats for the convenience of the reader an interpretation of existing regulations promulgated almost twenty years ago. The action would impose no new or additional requirements.

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 *et seq.*), operators of discharges associated with industrial activities that submit a complete Notice of Intent in accordance with Part 2.2 for a discharge that is located in an area specified in Part 1.1 and eligible for permit coverage under Part 1.2 are authorized to discharge pollutants to waters of the United States in accordance with the conditions and requirements set forth herein.

This permit becomes effective on October 30, 2000.

This permit and the authorization to discharge expire at midnight, October 30, 2005.

Signed and issued this 15th day of September, 2000.

Linda M. Murphy,

Director, Office of Ecosystem Protection, Region 1.

Signed and issued this 15th day of September, 2000.

Kathleen C. Callahan,

Director, Division of Environmental Planning and Protection, Region 2.

Signed and issued this 15th day of September, 2000.

Joseph T. Piotrowski,

Acting Director, Water Protection Division, Region 3.

Signed and issued this 12th day of September, 2000.

Douglas Mundrick,

Acting Deputy Division Director, Water Management Division, Region 4.

Signed and issued this 27th day of September, 2000.

Sam Becker,

Acting Director, Water Quality Protection Division, Region 6.

Signed and issued this 2d day of October, 2000.

Stephen S. Tuber,

Acting Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance, Region 8.

Signed and issued this 28th day of September, 2000.

Alexis Strauss,

Director, Water Division, Region 9.

Signed and issued this 14th day of September, 2000.

Michael A. Bussell,

Deputy Director, Office of Water, Region 10.

NPDES Multi-Sector General Permits for Storm Water Discharges Associated With Industrial Activities

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Note: In the Spirit of the Agency's ''Readable Regulations'' policy, this permit was written as much as practicable in a more reader-friendly, plain language format that should make it easier for people less familiar with traditional EPA permits and regulations to read and understand the permit requirements. Terms like ''you'' and ''your'' are used to refer to the party(ies) that are operators of a discharge, applicants, permittees, etc. Terms like ''must'' are used

instead of ''shall.'' Phrasing such as ''If you. * * * '' is used to identify conditions that may not apply to all permittees.

1. Coverage Under This Permit

1.1 Permit Area

The permit language is structured as if it were a single permit, with State, Indian country land or other area-specific conditions contained in Part 13. Permit coverage is actually provided by legally separate and distinctly numbered permits, all of which are contained herein, and which cover each of the areas listed in Parts 1.1.1 through 1.1.10.

Note: EPA can only provide permit coverage for areas and classes of discharges not within the scope of a State's NPDES authorization. For discharges not described in an area of coverage below, please contact the appropriate State NPDES permitting authority to obtain a permit.

1.1.1 EPA Region 1: CT, MA, ME, NH, RI, VT

The states of Connecticut, Rhode Island, and Vermont are the NPDES Permitting Authority for the majority of discharges within their respective states.

Permit No.	Areas of coverage/where EPA is permitting authority
CTR05*##I	Indian country lands within the State of Connecticut.
MAR05*###	Commonwealth of Massachusetts, except Indian country lands.
MAR05*##I	Indian country lands within the Commonwealth of Massachusetts.
MER05*###	State of Maine, except Indian country lands.
MER05*##I	Indian country lands within the State of Maine.
NHR05*###	State of New Hampshire.
RIR05*##I	Indian country lands within the State of Rhode Island.
VTR05*##F	Federal Facilities in the State of Vermont.

1.1.2 EPA Region 2: NJ, NY, PR, VI

The state of New York is the NPDES Permitting Authority for the majority of discharges within that state. New Jersey and the Virgin Islands are the NPDES Permitting Authority for all discharges within their respective states.

Permit No.	Areas of coverage/where EPA is permitting authority
PRR05*###	The Commonwealth of Puerto Rico.

1.1.3 EPA REGION 3: DE, DC, MD, PA, VA, WV

The state of Delaware is the NPDES Permitting Authority for the majority of discharges within that state. Maryland, Pennsylvania, and Virginia, West Virginia are the NPDES Permitting Authority for all discharges within these states.

Permit No.	Areas of coverage/where EPA is permitting authority
DCR05*###	The District of Columbia.
DER05*##F	Federal Facilities in the State of Delaware.

1.1.4 EPA Region 4: AL, FL, GA, KY, MS, NC, SC, TN

The states of Alabama, Florida, Mississippi, and North Carolina are the NPDES Permitting Authority for the majority of discharges within their respective states. Georgia, Kentucky, South Carolina and Tennessee are the NPDES Permitting Authority for all discharges within their respective states.

Permit No.	Areas of coverage/where EPA is permitting authority
ALR05*##I	Indian country lands within the State of Alabama.
FLR05*##I	Indian country lands within the State of Florida.
MSR05*##I	Indian country lands within the State of Mississippi.
NCR05*##I	Indian country lands within the State of North Carolina.

1.1.5 EPA Region 5: IL, IN, MI, MN, OH, WI

Coverage Not Available.

1.1.6 EPA Region 6: AR, LA, OK, TX, NM (Except See Region 9 for Navajo Lands, and See Region 8 for Ute Mountain Reservation Lands)

The states of Louisiana, Oklahoma, and Texas are the NPDES Permitting Authority for the majority of discharges within their respective states. Arkansas is the NPDES Permitting Authority for all discharges within that state.

Permit No.	Areas of coverage/where EPA is permitting authority
LAR05*##I	Indian country lands within the State of Louisiana.
NMR05*###	The State of New Mexico, except Indian country lands.
NMR05*##I	Indian country lands within the State of New Mexico, except Navajo Reservation Lands that are covered under Arizona permit AZR05*##I listed in Part 1.1.9 and Ute Mountain Reservation Lands that are covered under Colorado permit COR05*##I listed in Part 1.1.8.
OKR05*##I	Indian country lands within the State of Oklahoma.
OKR05*##F	Facilities in the State of Oklahoma not under the jurisdiction of the Oklahoma Department of Environmental Quality, except those on Indian country lands. EPA-jurisdiction facilities include SIC codes 1311, 1381, 1382, 1389 and 5171 and point source (but not non-point source) discharges associated with agricultural production, services, and silviculture.

Permit No.	Areas of coverage/where EPA is permitting authority
TXR05*##F	Facilities in the State of Texas not under the jurisdiction of the Texas Natural Resource Conservation Commission, except those on Indian country lands. EPA-jurisdiction facilities include SIC codes 1311, 1321, 1381, 1382, and 1389 (other than oil field service company ''home base'' facilities).
TXR05*##I	Indian country lands within the State of Texas.

1.1.7 EPA Region 7: IA, KS, MO, NE

Coverage Not Available.

1.1.8 EPA Region 8: CO, MT, ND, SD, WY, UT (Except See Region 9 for Goshute Reservation and Navajo Reservation Lands), the Ute Mountain Reservation in NM, and the Pine Ridge Reservation in NE

The states of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming are the NPDES Permitting Authority for the majority of discharges within their respective states.

Permit No.	Areas of coverage/where EPA is permitting authority
COR05*##F	Federal Facilities in the State of Colorado, except those located on Indian country lands which are covered under Colorado permit CORO5*##I below.
COR05*##I	Indian country lands within the State of Colorado, including the portion of the Ute Mountain Reservation located in New Mexico.
MTR05*##I	Reserved.
NDR05*##I	Indian country lands within the State of North Dakota, including that portion of the Standing Rock Reservation located in South Dakota except Indian country within the former boundaries of the Lake Traverse Reservation that is covered under South Dakota permit SDR05*##I listed below.
SDR05*##I	Indian country lands within the State of South Dakota, including the portion of the Pine Ridge Reservation located in Nebraska and the portion of Indian country within the former boundaries of the Lake Traverse Reservation located in North Dakota except for the Standing Rock Reservation that is covered under North Dakota permit NDR05*##I listed above.
UTR05*##I	Indian country lands within the State of Utah, except Goshute and Navajo Reservation lands that are covered under Arizona permit AZR05*##I (Goshute) listed in Part 1.1.9 and Nevada permit NVR05*##I (Navajo) listed in Part 1.1.9.
WYR05*##I	Indian country lands within the State of Wyoming.

1.1.9 EPA Region 9: CA, HI, NV, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Goshute Reservation in UT and NV, the Navajo Reservation in UT, NM, and AZ, the Duck Valley Reservation in ID, and the Fort McDermitt Reservation in OR

The states of California and Nevada are the NPDES Permitting Authority for the majority of discharges within their respective states. Hawaii is the NPDES Permitting Authority for all discharges within that state.

Permit No.	Areas of coverage/where EPA is permitting authority
ASR05*###	The Island of American Samoa.
AZR05*###	The State of Arizona, except Indian country lands.
AZR05*##I	Indian country lands within the State of Arizona, including Navajo Reservation lands in New Mexico and Utah.
CAR05*##I	Indian country lands within the State of California.
GUR05*###	The Island of Guam.
JAR05*###	Johnston Atoll.
MWR05*###	Midway Island and Wake Island.
NIR05*###	Commonwealth of the Northern Mariana Islands.
NVR05*##I	Indian country lands within the State of Nevada, including the Duck Valley Reservation in Idaho, the Fort McDermitt Reservation in Oregon and the Goshute Reservation in Utah.

1.1.10 Region 10: AK, ID (Except See Region 9 for Duck Valley Reservation Lands), OR (Except See Region 9 for Fort McDermitt Reservation), WA

The states of Oregon and Washington are the NPDES Permitting Authority for the majority of discharges within their respective states. The 1995 Multi-Sector General Permit was issued in the State of Alaska on February 9, 1996 (61 FR 5247) and the terms and conditions of the 1995 permit are effective for facilities in Alaska through February 9, 2001. EPA will reissue this permit for the State of Alaska at a future date.

Permit No.	Areas of coverage/where EPA is permitting authority
AKR05*##I	Indian country lands within Alaska.
IDR05*###	The State of Idaho, except Indian country lands.
IDR05*##I	Indian country lands within the State of Idaho, except Duck Valley Reservation lands which are covered under Nevada permit NVR05*##I listed in Part 1.1.9.
ORR05*##I	Indian country lands within the State of Oregon except Fort McDermitt Reservation lands that are covered under Nevada permit NVR05*##I listed in Part 1.1.9.
WAR05*##I	Indian country lands within the State of Washington.
WAR05*##F	Federal Facilities in the State of Washington, except those located on Indian country lands.

1.2 Eligibility

You must maintain permit eligibility to discharge under this permit. Any discharges that are not compliant with the eligibility conditions of this permit are not authorized by the permit and you must either apply for a separate permit to cover those ineligible discharges or take necessary steps to make the discharges eligible for coverage.

1.2.1 Facilities Covered

Your permit eligibility is limited to discharges from facilities in the ''sectors'' of industrial activity based on Standard Industrial Classification (SIC) codes and Industrial Activity Codes summarized in Table 1–1. References to ''sectors'' in this permit (*e.g.*, sector-specific monitoring requirements, *etc.*) refer to these sectors.

TABLE 1–1.—SECTORS OF INDUSTRIAL ACTIVITY COVERED BY THIS PERMIT

SIC code or activity code [1]	Activity represented
Sector A: Timber Products	
2411	Log Storage and Handling (Wet deck storage areas only authorized if no chemical additives are used in the spray water or applied to the logs).
2421	General Sawmills and Planning Mills.
2426	Hardwood Dimension and Flooring Mills.
2429	Special Product Sawmills, Not Elsewhere Classified.
2431–2439 (except 2434)	Millwork, Veneer, Plywood, and Structural Wood (see Sector W).
2448, 2449	Wood Containers.
2451, 2452	Wood Buildings and Mobile Homes.
2491	Wood Preserving.
2493	Reconstituted Wood Products.
2499	Wood Products, Not Elsewhere Classified.
Sector B: Paper and Allied Products	
2611	Pulp Mills.
2621	Paper Mills.
2631	Paperboard Mills.
2652–2657	Paperboard Containers and Boxes.
2671–2679	Converted Paper and Paperboard Products, Except Containers and Boxes.
Sector C: Chemical and Allied Products	
2812–2819	Industrial Inorganic Chemicals.
2821–2824	Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers Except Glass.
2833–2836	Medicinal chemicals and botanical products; pharmaceutical preparations; in vitro and in vivo diagnostic substances; biological products, except diagnostic substances.
2841–2844	Soaps, Detergents, and Cleaning Preparations; Perfumes, Cosmetics, and Other Toilet Preparations.
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products.
2861–2869	Industrial Organic Chemicals.
2873–2879	Agricultural Chemicals.
2873	Facilities that Make Fertilizer Solely from Leather Scraps and Leather Dust.
2891–2899	Miscellaneous Chemical Products.
3952 (limited to list)	Inks and Paints, Including China Painting Enamels, India Ink, Drawing Ink, Platinum Paints for Burnt Wood or Leather Work, Paints for China Painting, Artist's Paints and Artist's Watercolors.
Sector D: Asphalt Paving and Roofing Materials and Lubricants	
2951, 2952	Asphalt Paving and Roofing Materials.
2992, 2999	Miscellaneous Products of Petroleum and Coal.
Sector E: Glass Clay, Cement, Concrete, and Gypsum Products	
3211	Flat Glass.
3221, 3229	Glass and Glassware, Pressed or Blown.
3231	Glass Products Made of Purchased Glass.
3241	Hydraulic Cement.
3251–3259	Structural Clay Products.
3261–3269	Pottery and Related Products.
3271–3275	Concrete, Gypsum and Plaster Products.
3291–3299	Abrasive, Asbestos, and Miscellaneous Nonmetallic Mineral Products.
Sector F: Primary Metals	
3312–3317	Steel Works, Blast Furnaces, and Rolling and Finishing Mills.
3321–3325	Iron and Steel Foundries.
3331–3339	Primary Smelting and Refining of Nonferrous Metals.
3341	Secondary Smelting and Refining of Nonferrous Metals.
3351–3357	Rolling, Drawing, and Extruding of Nonferrous Metals.

TABLE 1–1.—SECTORS OF INDUSTRIAL ACTIVITY COVERED BY THIS PERMIT—Continued

SIC code or activity code [1]	Activity represented
3363–3369	Nonferrous Foundries (Castings).
3398, 3399	Miscellaneous Primary Metal Products.
Sector G: Metal Mining (Ore Mining and Dressing)	
1011	Iron Ores.
1021	Copper Ores.
1031	Lead and Zinc Ores.
1041, 1044	Gold and Silver Ores.
1061	Ferroalloy Ores, Except Vanadium.
1081	Metal Mining Services.
1094, 1099	Miscellaneous Metal Ores.
Sector H: Coal Mines and Coal Mining Related Facilities	
1221–1241	Coal Mines and Coal Mining-Related Facilities.
Sector I: Oil and Gas Extraction and Refining	
1311	Crude Petroleum and Natural Gas.
1321	Natural Gas Liquids.
1381–1389	Oil and Gas Field Services.
2911	Petroleum Refineries.
Sector J: Mineral Mining and Dressing	
1411	Dimension Stone.
1422–1429	Crushed and Broken Stone, Including Rip Rap.
1442, 1446	Sand and Gravel
1455, 1459	Clay, Ceramic, and Refractory Materials.
1474–1479	Chemical and Fertilizer Mineral Mining.
1481	Nonmetallic Minerals Services, Except Fuels.
1499	Miscellaneous Nonmetallic Minerals, Except Fuels.
Sector K: Hazardous Waste Treatment, Storage, or Disposal Facilities	
HZ	Hazardous Waste Treatment Storage or Disposal.
Sector L: Landfills and Land Application Sites	
LF	Landfills, Land Application Sites, and Open Dumps.
Sector M: Automobile Salvage Yards	
5015	Automobile Salvage Yards.
Sector N: Scrap Recycling Facilities	
5093	Scrap Recycling Facilities.
Sector O: Steam Electric Generating Facilities	
SE	Steam Electric Generating Facilities.
Sector P: Land Transportation and Warehousing	
4011, 4013	Railroad Transportation.
4111–4173	Local and Highway Passenger Transportation.
4212–4231	Motor Freight Transportation and Warehousing.
4311	United States Postal Service.
5171	Petroleum Bulk Stations and Terminals.
Sector Q: Water Transportation	
4412–4499	Water Transportation.
Sector R: Ship and Boat Building or Repairing Yards	
3731,3732	Ship and Boat Building or Repairing Yards.
Sector S: Air Transportation	
4512–4581	Air Transportation Facilities.

TABLE 1–1.—SECTORS OF INDUSTRIAL ACTIVITY COVERED BY THIS PERMIT—Continued

SIC code or activity code [1]	Activity represented
Sector T: Treatment Works	
TW	Treatment Works.
Sector U: Food and Kindred Products	
2011–2015	Meat Products.
2021–2026	Dairy Products.
2032	Canned, Frozen and Preserved Fruits, Vegetables and Food Specialties.
2041–2048	Grain Mill Products.
2051–2053	Bakery Products.
2061–2068	Sugar and Confectionery Products.
2074–2079	Fats and Oils.
2082–2087	Beverages.
2091–2099	Miscellaneous Food Preparations and Kindred Products.
2111–2141	Tobacco Products.
Sector V: Textile Mills, Apparel, and Other Fabric Product Manufacturing, Leather and Leather Products	
2211–2299	Textile Mill Products.
2311–2399	Apparel and Other Finished Products Made From Fabrics and Similar Materials.
3131–3199 (except 3111)	Leather and Leather Products, except Leather Tanning and Finishing (see Sector Z).
Sector W: Furniture and Fixtures	
2434	Wood Kitchen Cabinets.
2511–2599	Furniture and Fixtures.
Sector X: Printing and Publishing	
2711–2796	Printing, Publishing, and Allied Industries.
Sector Y: Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries.	
3011	Tires and Inner Tubes.
3021	Rubber and Plastics Footwear.
3052, 3053	Gaskets, Packing, and Sealing Devices and Rubber and Plastics Hose and Belting.
3061, 3069	Fabricated Rubber Products, Not Elsewhere Classified.
3081–3089	Miscellaneous Plastics Products.
3931	Musical Instruments.
3942–3949	Dolls, Toys, Games and Sporting and Athletic Goods.
3951–3955 (except 3952 facilities as specified in Sector C).	Pens, Pencils,and Other Artists' Materials.
3961, 3965	Costume Jewelry, Costume Novelties, Buttons, and Miscellaneous Notions, Except Precious Metal.
3991–3999	Miscellaneous Manufacturing Industries.
3411–3499	Fabricated Metal Products, Except Machinery and Transportation Equipment.
3911–3915	Jewelry, Silverware, and Plated Ware.
Sector AB: Transportation Equipment, Industrial or Commercial Machinery	
3511–3599 (except 3571–3579)	Industrial and Commercial Machinery (except Computer and Office Equipment) (see Sector AC).
3711–3799 (except 3731, 3732)	Transportation Equipment (except Ship and Boat Building and Repairing) (see Sector R).
Sector AC: Electronic, Electrical, Photographic, and Optical Goods	
3571–3579	Computer and Office Equipment.
3612–3699	Electronic, Electrical Equipment and Components, except Computer Equipment.
3812	Measuring, Analyzing and Controlling Instrument; Photographic and Optical Goods.
Sector AD: Non-Classified Facilities	
N/A	Other storm water discharges designated by the Director as needing a permit (see 40 CFR 122.26(g)(1)(I)) or any facility discharging storm water associated with industrial activity not described by any of Sectors A–AC. **Note:** Facilities may not elect to be covered under Sector AD. Only the Director may assign a facility to Sector AD.

[1] A complete list of SIC codes (and conversions from the newer North American Industry Classification System (NAICS)) can be obtained from the Internet at *http://www.census.gov/epcd/www/naics.html* or in paper form from various locations in the document entitled ''Handbook of Standard Industrial Classifications,'' Office of Management and Budget, 1987. Industrial activity codes are provided on the Multi-Sector General Permit Notice of Intent (NOI) application form (EPA Form Number 3510–6).

1.2.1.1 *Co-located Activities.* If you have co-located industrial activities on-site that are described in a sector(s) other than your primary sector, you must comply with all other applicable sector-specific conditions found in Part 6 for the co-located industrial activities. The extra sector-specific requirements are applied only to those areas of your facility where the extra-sector activities occur. An activity at a facility is not considered co-located if the activity, when considered separately, does not meet the description of a category of industrial activity covered by the storm water regulations, and identified by the MSGP–2000 SIC code list. For example, unless you are actually hauling substantial amounts of freight or materials with your own truck fleet or are providing a trucking service to outsiders, simple maintenance of vehicles used at your facility is unlikely to meet the SIC code group 42 description of a motor freight transportation facility. Even though Sector P may not apply, the runoff from your vehicle maintenance facility would likely still be considered storm water associated with industrial activity. As such, your SWPPP must still address the runoff from the vehicle maintenance facility—although not necessarily with the same degree of detail as required by Sector P—but you would not be required to monitor as per Sector P.

If runoff from co-located activities commingles, you must monitor the discharge as per the requirements of all applicable sectors (regardless of the actual location of the discharge). If you comply with all applicable requirements from all applicable sections of Part 6 for the co-located industrial activities, the discharges from these co-located activities are authorized by this permit.

1.2.2 Discharges Covered

1.2.2.1 *Allowable Storm Water Discharges.* Subject to compliance with the terms and conditions of this permit, you are authorized to discharge pollutants in:

1.2.2.1.1 Discharges of storm water runoff associated with industrial activities as defined in 40 CFR 122.26 (b)(14)(i–ix and xi) from the sectors of industry described in Table 1–1, and that are specifically identified by outfall or discharge location in the Storm Water Pollution Prevention Plan (see Part 4.2.2.3.7);

1.2.2.1.2 Non-storm water discharges as noted in Part 1.2.2.2 or otherwise specifically allowed by the permit;

1.2.2.1.3 Discharges subject to an effluent guideline listed in Table 1–2 that also meet all other eligibility requirements of the permit. Interim coverage is also available for discharges subject to a new storm water effluent limitation guideline promulgated after the effective date of this permit. Discharges subject to a New Source Performance Standard (NSPS) effluent guideline must also meet the requirements of Part 1.2.4.;

1.2.2.1.4 Discharges designated by the Director as needing a storm water permit under 40 CFR 122.26(a)(1)(v) or under 122.26(a)(9) and 122.26(g)(1)(i); and

1.2.2.1.5 Discharges comprised of a discharge listed in Parts 1.2.2.1.1 to 1.2.2.1.4 above commingled with a discharge authorized by a different NPDES permit and/or a discharge that does not require NPDES permit authorization.

TABLE 1–2.—EFFLUENT GUIDELINES APPLICABLE TO DISCHARGES THAT MAY BE ELIGIBLE FOR PERMIT COVERAGE

Effluent guideline	New source performance standards included in effluent guidelines?	Sectors with affected facilities
Runoff from material storage piles at cement manufacturing facilities [40 CFR Part 411 Subpart C (established February 23, 1977)].	Yes	E
Contaminated runoff from phosphate fertilizer manufacturing facilities [40 CFR Part 418 Subpart A (established April 8, 1974)].	Yes	C
Coal pile runoff at steam electric generating facilities [40 CFR Part 423 (established November 19, 1982)]	Yes	O
Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas [40 CFR Part 429, Subpart I (established January 26, 1981)].	Yes	A
Mine dewatering discharges at crushed stone mines [40 CFR part 436, Subpart B]	No	J
Mine dewatering discharges at construction sand and gravel mines [40 CFR part 436, Subpart C]	No	J
Mine dewatering discharges at industrial sand mines [40 CFR part 436, Subpart D]	No	J
Runoff from asphalt emulsion facilities [40 CFR Part 443 Subpart A (established July 24, 1975)]	Yes	D
Runoff from landfills, [40 CFR Part 445, Subpart A and B (established February 2, 2000]	Yes	K & L

1.2.2.2 *Allowable Non-Storm Water Discharges.* You are also authorized for the following non-storm water discharges, provided the non-storm water component of your discharge is in compliance with Part 4.4.2 (non-storm water discharges):

1.2.2.2.1 Discharges from fire fighting activities;

1.2.2.2.2 Fire hydrant flushings;

1.2.2.2.3 Potable water including water line flushings;

1.2.2.2.4 Uncontaminated air conditioning or compressor condensate;

1.2.2.2.5 Irrigation drainage;

1.2.2.2.6 Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with manufacturer's instructions;

1.2.2.2.7 Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);

1.2.2.2.8 Routine external building wash down which does not use detergents;

1.2.2.2.9 Uncontaminated ground water or spring water;

1.2.2.2.10 Foundation or footing drains where flows are not contaminated with process materials such as solvents;

1.2.2.2.11 Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of your facility, but NOT intentional discharges from the cooling tower (*e.g.*, ''piped'' cooling tower blowdown or drains).

1.2.3 Limitations on Coverage

1.2.3.1 *Prohibition on Discharges Mixed with Non-Storm Water.* You are not authorized for discharges that are mixed with sources of non-storm water. This exclusion does not apply to discharges identified in Part 1.2.2.2, provided the discharges are in compliance with Part 4.4.2 (Storm

Water Pollution Prevention Plan requirements for authorized non-storm water discharges), and to any discharge explicitly authorized by the permit.

1.2.3.2 *Storm Water Discharges Associated with Construction Activity.* You are not authorized for storm water discharges associated with construction activity as defined in 40 CFR 122.26(b)(14)(x) or 40 CFR 122.26(b)(15).

1.2.3.3 *Discharges Currently or Previously Covered by Another Permit.* You are not authorized for the following:

1.2.3.3.1 Storm water discharges associated with industrial activity that are currently covered under an individual permit or an alternative general permit.

1.2.3.3.2 Discharges previously covered by an individual permit or alternative general permit (except the 1992 ''Baseline'' or the 1995 Multi-Sector NPDES General Permits for Storm Water Discharges Associated With Industrial Activity) that has expired, or been terminated at the request of the permittee unless:

1.2.3.3.2.1 The individual permit did not contain numeric water quality-based limitations developed for the storm water component of the discharge; and

1.2.3.3.2.2 The permittee includes any specific BMPs for storm water required under the individual permit in the SWPPP required under Part 4 of this permit.

1.2.3.3.3 Storm water discharges associated with industrial activity from facilities where any NPDES permit has been or is in the process of being denied, terminated, or revoked by the Director (other than in a replacement permit issuance process). Upon request, the Director may waive this exclusion if operator of the facility has since passed to a different owner/operator and new circumstances at the facility justify a waiver.

1.2.3.4 *Discharges Subject to Effluent Limitations Guidelines.* You are not authorized for discharges subject to any effluent limitation guideline that is not included in Table 1–2. For discharges subject to a New Source Performance Standard (NSPS) effluent guideline identified in Table 1–2, you must comply with Part 1.2.4 prior to being eligible for permit coverage.

1.2.3.5 *Discharge Compliance with Water Quality Standards.* You are not authorized for storm water discharges that the Director determines will cause, or have reasonable potential to cause or contribute to, violations of water quality standards. Where such determinations have been made, the Director may notify you that an individual permit application is necessary in accordance with Part 9.12. However, the Director may authorize your coverage under this permit after you have included appropriate controls and implementation procedures designed to bring your discharges into compliance with water quality standards in your Storm Water Pollution Prevention Plan.

1.2.3.6 *Endangered and Threatened Species or Critical Habitat Protection.* You are not authorized for discharges that do not avoid unacceptable effects on Federally listed endangered and threatened (''listed'') species or designated critical habitat (''critical habitat'').

Caution: Additional endangered and threatened species have been listed and critical habit designated since the 1995 MSGP was issued. Even if you were previously covered by the 1995 MSGP, you must determine eligibility for this permit through the processes described below and in Addendum A. Where applicable, you may incorporate information from your previous endangered species analysis in your documentation of eligibility for this permit.

1.2.3.6.1 Coverage under this permit is available only if your storm water discharges, allowable non-storm water discharges, and discharge-related activities are not likely to jeopardize the continued existence of any species that are listed as endangered or threatened (''listed'') under the ESA or result in the adverse modification or destruction of habitat that is designated or proposed to be designated as critical under the ESA (''critical habitat''). Submission of a signed NOI will be deemed to also constitute your certification of eligibility.

1.2.3.6.2 ''Discharge-related activities'' include: activities which cause, contribute to, or result in storm water point source pollutant discharges; and measures to control storm water discharges including the siting, construction and operation of best management practices (BMPs) to control, reduce or prevent storm water pollution.

1.2.3.6.3 *Determining Eligibility:* You must use the most recent Endangered and Threatened Species County-Species List available from EPA and the process in Addendum A (ESA Screening Process) to determine your eligibility *PRIOR* to submittal of your NOI. As of the effective date of this permit, the most current version of the List is located on the EPA Office of Water Web site at *http://www.epa.gov/owm/esalst2.htm.* You must meet one or more of the criteria in 1.2.3.6.3.1 through 1.2.3.6.3.5 below for the entire term of coverage under the permit. You must include a certification of eligibility and supporting documentation on the eligibility determination in your Storm Water Pollution Prevention Plan.

1.2.3.6.3.1 *Criteria A:* No endangered or threatened species or critical habitat are in proximity to your facility or the point where authorized discharges reach the receiving water; or

1.2.3.6.3.2 *Criteria B:* In the course of a separate federal action involving your facility (*e.g.*, EPA processing request for an individual NPDES permit, issuance of a CWA § 404 wetlands dredge and fill permit, *etc.*), formal or informal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service (the ''Services'') under section 7 of the Endangered Species Act (ESA) has been concluded and that consultation:

(a) Addressed the effects of your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed species and critical habitat and

(b) The consultation resulted in either a no jeopardy opinion or a written concurrence by the Service on a finding that your storm water discharges, allowable non-storm water discharges, and discharge-related activities are not likely to adversely affect listed species or critical habitat; or

1.2.3.6.3.3 *Criteria C:* Your activities are authorized under section 10 of the ESA and that authorization addresses the effects of your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed species and critical habitat; or

1.2.3.6.3.4 *Criteria D:* Using best judgement, you have evaluated the effects of your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed endangered or threatened species and critical habitat and do not have reason to believe listed species or critical habitat would be adversely affected.

1.2.3.6.3.5 *Criteria E:* Your storm water discharges, allowable non-storm water discharges, and discharge-related activities were already addressed in another operator's certification of eligibility under Part 1.2.3.6.3.1 through 1.2.3.6.3.4 which included your facility's activities. By certifying eligibility under this Part, you agree to comply with any measures or controls upon which the other operator's certification was based;

1.2.3.6.4 The Director may require any permittee or applicant to provide documentation of the permittee or applicant's determination of eligibility for this permit using the procedures in Addendum A where EPA or the Fish

and Wildlife and/or National Marine Fisheries Services determine that there is a potential impact on endangered or threatened species or a critical habitat.

1.2.3.6.5 You are not authorized to discharge if the discharges or discharge-related activities cause a prohibited ''take'' of endangered or threatened species (as defined under section 3 of the Endangered Species Act and 50 CFR 17.3), unless such takes are authorized under sections 7 or 10 of the Endangered Species Act.

1.2.3.6.6 You are not authorized for any discharges where the discharges or discharge-related activities are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the ESA or result in the adverse modification or destruction of habitat that is designated or proposed to be designated as critical under the ESA.

1.2.3.6.7 The Endangered Species Act (ESA) provisions upon which part 1.2.3.6 is based do not apply to state-issued permits. Should administration of all or a portion of this permit be transfer to a State as a result of that State assuming the NPDES program pursuant to Clean Water Act § 402(b), Part 1.2.3.6 will not apply to any new NOIs submitted to the State after the State assumes administration of the permit (unless otherwise provided in the state program authorization agreement). Likewise, any other permit conditions based on Part 1.2.3.6 will no longer apply to new NOIs accepted by the NPDES-authorized state.

1.2.3.7 *Storm water Discharges and Storm Water Discharge-Related Activities with Unconsidered Adverse Effects on Historic Properties.*

1.2.3.7.1 *Determining Eligibility:* In order to be eligible for coverage under this permit, you must be in compliance with the National Historic Preservation Act. Your discharges may be authorized under this permit only if:

1.2.3.7.1.1 *Criteria A:* Your storm water discharges, allowable non-storm water discharges, and discharge-related activities do not affect a property that is listed or is eligible for listing on the National Register of Historic Places as maintained by the Secretary of the Interior; or

1.2.3.7.1.2 *Criteria B:* You have obtained and are in compliance with a written agreement with the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) that outlines all measures you will undertake to mitigate or prevent adverse effect to the historic property.

1.2.3.7.2 Addendum B of this permit provides guidance and references to assist you with determining your permit eligibility concerning this provision.

1.2.3.8 *Discharges to Water Quality-Impaired or Water Quality-Limited Receiving Waters.*

1.2.3.8.1 You are not authorized to discharge if your discharge is prohibited under 40 CFR 122.4(i).

1.2.3.8.2 You are not authorized to discharge any pollutant into any water for which a Total Maximum Daily Load (TMDL) has been either established or approved by the EPA unless your discharge is consistent with that TMDL.

1.2.3.9 *Storm Water Discharges Subject to Anti-degradation Water Quality Standards.* You are not authorized for discharges that do not comply with your State or Tribe's anti-degradation policy for water quality standards. State and Tribal anti-degradation policies can be obtained from the appropriate State or Tribal environmental office or their Internet sites.

1.2.4 Discharges Subject to New Source Performance Standards (NSPS)[1] [2]

1.2.4.1 *Documentation of New Source Review.* If you have a discharge(s) subject to a NSPS effluent guideline, you must obtain and retain the following on site prior to the submittal of your Notice of Intent:

1.2.4.1.1 Documentation from EPA of ''No Significant Impact'' or

1.2.4.1.2 A completed Environmental Impact Statement in accordance with an environmental review conducted by EPA pursuant to 40 CFR 6.102(a)(6).

1.2.4.2 *Initiating a New Source Review.* If the Agency's decision has not been obtained, you may use the format and procedures specified in Addendum C to submit information to EPA to initiate the process of the environmental review.

To maintain eligibility, you must implement any mitigation required of the facility as a result of the National Environmental Policy Act (NEPA) review process. Failure to implement mitigation measures upon which the Agency's NEPA finding is based is grounds for termination of permit coverage.

1.2.4.3 *NEPA Requirements after State Assumption of this Permit.* The National Environmental Policy Act (NEPA) provisions upon which part 1.2.4 is based do not apply to state-issued permits. Should administration of all or a portion of this permit be transfer to a State as a result of that State assuming the NPDES program pursuant to Clean Water Act § 402(b), Part 1.2.4 will not apply to any new NOIs submitted to the State after the State assumes administration of the permit. Likewise, any other permit conditions based on Part 1.2.4 will no longer apply to new NOIs accepted by the NPDES-authorized state.

1.3 How To Obtain Authorization Under This Permit

1.3.1 Basic Eligibility

You may be authorized under this permit only if you have a discharge of storm water associated with industrial activity from your facility. In order to obtain authorization under this permit, you must:

1.3.1.1 Meet the Part 1.2 eligibility requirements; and

1.3.1.2 Develop and implement a Storm Water Pollution Prevention Plan (SWPPP) (see definition in Part 12) according to the requirements in Part 4 of this permit.

1.3.1.3 Submit a complete Notice of Intent (NOI) in accordance with the requirements of Part 2 of this permit. Any new operator at a facility, including those who replace an operator who has previously obtained permit coverage, must submit an NOI to be covered for discharges for which they are the operator.

1.3.2 Effective Date of Permit Coverage

Unless notified by the Director to the contrary, if you submit a correctly completed NOI in accordance with the requirements of this permit, you are authorized to discharge under the terms and conditions of this permit two (2) days after the date the NOI is postmarked (but in no event, earlier than the effective date of the permit). The Director may deny coverage under this permit and require submission of an application for an individual NPDES permit based on a review of your NOI or other information (see Part 9.12). Authorization to discharge is not automatically granted two days after the NOI is mailed if your NOI is materially incomplete (*e.g.*, critical information left off, NOI unsigned, *etc.*) or if your discharge(s) is not eligible for coverage by the permit.

[1] NSPS apply only to discharges from those facilities or installations that were constructed after the promulgation of NSPS. For example, storm water discharges from areas where the production of asphalt paving and roofing emulsions occurs are subject to NSPS only if the asphalt emulsion facility was constructed after July 24, 1975.

[2] The provisions specified in Part 1.2.2.3 and Part 1.2.4 related to documenting New Source reviews are requirements of Federal programs under the National Environmental Policy Act of 1969 and will not apply to such facilities in the event that authority for the NPDES program has been assumed by the State/Tribe agency and administration of this permit has been transferred to the State/Tribe.

1.4 Terminating Coverage

1.4.1 Submitting a Notice of Termination

If you wish to terminate coverage under this permit, you must submit a Notice of Termination (NOT) in accordance with Part 11 of this permit. You must continue to comply with this permit until you submit an NOT. Your authorization to discharge under the permit terminates at midnight of the day the NOT is signed.

1.4.2 When to Submit an NOT

You must submit an NOT within thirty (30) days after one or more of the following conditions have been met:

1.4.2.1 A new owner/operator has assumed responsibility for the facility

1.4.2.2 You have ceased operations at the facility and there no longer are discharges of storm water associated with industrial activity from the facility and you have already implemented necessary sediment and erosion controls as required by Part 4.2.7.2.2.1

1.4.3 Discharges After the NOT Is Submitted

Enforcement actions may be taken if you submit an NOT without meeting one or more of these conditions, unless you have obtained coverage under an alternate permit or have satisfied the requirements of Part 1.5.

1.5 Conditional Exclusion for No Exposure

If you are covered by this permit, but later are able to file a ''no exposure'' certification to be excluded from permitting under 40 CFR 122.26(g), you are no longer authorized by nor required to comply with this permit. If you are no longer required to have permit coverage due to a ''no exposure'' exclusion, you are not required to submit a Notice of Termination.

2. Notice of Intent Requirements

2.1 Notice of Intent (NOI) Deadlines

Your NOI must be submitted in accordance with the deadlines in Table 2–1. You must meet all applicable eligibility conditions of Part 1.2 before you submit your NOI.

TABLE 2.–1—DEADLINES FOR NOI SUBMITTAL

Category	Deadline
1. Existing discharges covered under the 1995 MSGP (see also Part 2.1.2—Interim Coverage).	December 29, 2000.
2. New discharges	Two (2) days prior to commencing operation of the facility with discharges of storm water associated with industrial activity.
3. New owner/operator of existing discharges.	Two (2) days prior to taking operational control of the facility.
4. Continued coverage when the permit expires in 2005.	See Part 9.2

Only one NOI need be submitted to cover all of your activities at the facility (*e.g.*, you do not need to submit a separate NOI for each separate type of industrial activity located at a facility or industrial complex, provided your SWPPP covers each area for which you are an operator).

2.1.1 Submitting a Late NOI

You are not prohibited from submitting an NOI after the dates provided in Table 2–1. If a late NOI is submitted, your authorization is only for discharges that occur after permit coverage is granted. The Agency reserves the right to take appropriate enforcement actions for any unpermitted discharges.

2.1.2 Interim Permit Coverage for 1995 MSGP Permittees

If you had coverage for your facility under the 1995 MSGP, you may be eligible for continued coverage under this permit on an interim basis.

2.1.2.1 *Discharges Authorized Under the 1995 MSGP.* If permit coverage for your facility under the 1995 MSGP was effective as of the date the 1995 MSGP expired (or the date this permit replaced the 1995 MSGP if earlier), your authorization is automatically continued into this replacement permit on an interim basis for up to ninety (90) days from the effective date of the permit. Interim coverage will terminate earlier than the 90 days when an NOI has been submitted and coverage either granted or denied; or after submittal of an NOT.

2.1.2.2 *Discharges Authorized Under the 1995 MSGP, But Not Clearly Eligible for Coverage Under This Permit.* If you were previously covered by the 1995 MSGP, but cannot meet (or cannot immediately determine if you meet) the eligibility requirements of this permit, you may nonetheless be authorized under this permit for a period not to exceed 270 days from the date this permit is published in the **Federal Register**, provided you submit an application for an alternative permit within 90 days from the permit publication date.

2.1.2.3 *Interim Coverage Permit Requirements.* While you are operating under interim coverage status, you must:

2.1.2.3.1 Submit a complete NOI (see Part 2.2) by the deadlines listed in Table 2–1 or Part 2.1.2.2 above.

2.1.2.3.2 Comply with the terms and conditions of the 1995 MSGP.

2.1.2.3.3 Update your Storm Water Pollution Prevention Plan to comply with the requirements of this permit within 90 days after the effective date of this permit.

2.2 Contents of Notice of Intent (NOI)

Your NOI for coverage under this permit must include the following information:

2.2.1 Permit Selection

2.2.1.1 If you were covered under the previous MSGP, provide the permit number assigned to your facility.

2.2.2 Owner/Operator Information

2.2.2.1 The name, address, and telephone number of the operator (*e.g.,* your company, etc.) filing the NOI for permit coverage;

2.2.3 Facility Information

2.2.3.1 The name (or other identifier), address, county, and latitude/longitude of the facility for which the NOI is submitted;

2.2.3.2 An indication of whether you are a Federal, State, Tribal, private, or other public entity;

2.2.3.3 An indication of whether the facility is located on Indian country lands;

2.2.3.4 Certification that a Storm Water Pollution Prevention Plan (SWPPP) meeting the requirements of Part 4 has been developed (including attaching a copy of this permit to the plan;

2.2.3.5 The name of the receiving water(s);

2.2.3.6 The name of the municipal operator if the discharge is through a municipal separate storm sewer system, unless you are the owner/operator of that municipal separate storm sewer system;

2.2.3.7 Identification of applicable sector(s) in this permit, as designated in Table 1–1, that cover the discharges associated with industrial activity you wish to cover under this permit;

2.2.3.8 Up to four 4-digit Standard Industrial Classification (SIC) codes or

the 2-letter Activity Codes for hazardous waste treatment, storage, or disposal activities (HZ); land/disposal facilities that receive or have received any industrial waste (LF); steam electric power generating facilities (SE); or treatment works treating domestic sewage (TW) that best represent the principal products produced or services rendered by your facility and major co-located activities;

2.2.4 Eligibility Screening

2.2.4.1 Based on the instructions in Addendum A, whether any listed or proposed threatened or endangered species, or designated critical habitat, are in proximity to the storm water discharges or storm water discharge-related activities to be covered by this permit;

2.2.4.2 Whether any historic property listed or eligible for listing on the National Register of Historic Places is located on the facility or in proximity to the discharge;

2.2.4.3 A signed and dated certification, signed by a authorized representative of your facility and maintained with your SWPPP, as detailed in Part 9.7 that certifies the following:

''I certify under penalty of law that I have read and understand the Part 1.2 eligibility requirements for coverage under the multi-sector storm water general permit including those requirements relating to the protection of endangered or threatened species or critical habitat. To the best of my knowledge, the storm water and allowable non-storm discharges authorized by this permit (and discharged related activities), pose no jeopardy to endangered or threatened species or critical habitat, or are otherwise eligible for coverage under Part 1.2.3.6 of the permit. To the best of my knowledge, I further certify that such discharges and discharge related activities do not have an effect on properties listed or eligible for listing on the National Register or Historic Places under the National Historic Preservation Act, or are otherwise eligible for coverage under Part 1.2.3.7 of the permit. I understand that continued coverage under the multi-sector storm water general permit is contingent upon maintaining eligibility as provided for in Part 1.2''

2.3 Use of NOI Form

You must submit the information required under Part 2.2 on the latest version of the NOI form (or photocopy thereof) contained in Addendum D. Your NOI must be signed and dated in accordance with Part 9.7 of this permit.

Note: If EPA notifies dischargers (either directly, by public notice, or by making information available on the Internet) of other NOI form options that become available at a later date (*e.g.*, electronic submission of forms), you may take advantage of those options to satisfy the NOI use and submittal requirements of Part 2.

2.4 Where To Submit

Your NOI must be signed in accordance with Part 9.7 of this permit and submitted to the Director of the NPDES Permitting Program at the following address: Storm Water Notice of Intent (4203), US EPA, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

2.5 Additional Notification

If your facility discharges through a large or medium municipal separate storm sewer system (MS4), or into a MS4 that has been designated by the permitting authority, you must also submit a signed copy of the NOI to the operator of that MS4 upon request by the MS4 operator.

3. Special Conditions

3.1 Hazardous Substances or Oil

You must prevent or minimize the discharge of hazardous substances or oil in your discharge(s) in accordance with the Storm Water Pollution Prevention Plan for your facility. This permit does not relieve you of the reporting requirements of 40 CFR 110, 40 CFR 117 and 40 CFR 302 relating to spills or other releases of oils or hazardous substances.

3.1.1 Single Releases and Spills

Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR 110, 40 CFR 117 or 40 CFR 302, occurs during a 24 hour period:

3.1.1.1 You must notify the National Response Center (NRC) (800–424–8802; in the Washington, DC, metropolitan area call 202–426–2675) in accordance with the requirements of 40 CFR 110, 40 CFR 117 and 40 CFR 302 as soon as he or she has knowledge of the discharge;

3.1.1.2 You must modify your Storm Water Pollution Prevention Plan required under Part 4 within 14 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, you must review your plan to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and you must modify your plan where appropriate.

3.1.2 Anticipated Discharges

Anticipated discharges containing a hazardous substance in an amount equal to or in excess of reporting quantities are those caused by events occurring within the scope of the relevant operating system. If your facilities has (or will have) more than one anticipated discharge per year containing a hazardous substance in an amount equal to or in excess of a reportable quantity, you must:

3.1.2.1 Submit notifications of the first release that occurs during a calendar year (or for the first year of this permit, after submittal of an NOI); and

3.1.2.2 Provide a written description in the SWPPP of the dates on which such releases occurred, the type and estimate of the amount of material released, and the circumstances leading to the releases. In addition, your SWPPP must address measures to minimize such releases.

3.1.2.3 Where a discharge of a hazardous substance or oil in excess of reporting quantities is caused by a non-storm water discharge (*e.g.,* a spill of oil into a separate storm sewer), that discharge is not authorized by the MSGP and you must report the discharge as required under 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302 (see Part 3.1.1. above). In the event of a spill, the requirements of Section 311 of the CWA and other applicable provisions of Sections 301 and 402 of the CWA continue to apply.

3.2 Additional Requirements for Salt Storage

If you have storage piles of salt used for deicing or other commercial or industrial purposes, they must be enclosed or covered to prevent exposure to precipitation (except for exposure resulting from adding or removing materials from the pile). Piles do not need to be enclosed or covered where storm water from the pile is not discharged to waters of the United States or the discharges from the piles are authorized under another permit.

3.3 Discharge Compliance With Water Quality Standards

Your discharges must not be causing or have the reasonable potential to cause or contribute to a violation of a water quality standard. Where a discharge is already authorized under this permit and is later determined to cause or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard, the Director will notify you of such violation(s). You must take all necessary actions to ensure future discharges do not cause or contribute to the violation of a water quality standard and document these actions in the Storm Water Pollution Prevention Plan. If violations remain or re-occur, then coverage under this permit may be terminated by the Director, and an alternative general permit or individual permit may be issued. Compliance with

this requirement does not preclude any enforcement activity as provided by the Clean Water Act for the underlying violation.

4. Storm Water Pollution Prevention Plans

4.1 Storm Water Pollution Prevention Plan Requirements

You must prepare a Storm Water Pollution Prevention Plan (SWPPP) for your facility before submitting your Notice of Intent for permit coverage. Your SWPPP must be prepared in accordance with good engineering practices. Use of a registered professional engineer for SWPPP preparation is not required by the permit, but may be independently required under state law and/or local ordinance. Your SWPPP must:

4.1.1 Identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from your facility;

4.1.2 Describe and ensure implementation of practices which you will use to reduce the pollutants in storm water discharges from the facility; and

4.1.3 assure compliance with the terms and conditions of this permit.

Note: At larger installations such as military bases where there are well-defined industrial versus non-industrial areas, the SWPPP required under this Part need only address those areas with discharges of storm water associated with industrial activity. (*e.g.,* under this permit, a U.S. Air Force Base would need to address the vehicle maintenance areas associated with the ''airport'' portion of the base in the SWPPP, but would not need to address a car wash that served only the on-base housing areas.)

4.2 Contents of Plan

4.24.2.1 Pollution Prevention Team

You must identify the staff individual(s) (by name or title) that comprise the facility's storm water Pollution Prevention Team. Your Pollution Prevention Team is responsible for assisting the facility/plant manager in developing, implementing, maintaining and revising the facility's SWPPP. Responsibilities of each staff individual on the team must be listed.

4.2.2 Site Description

Your SWPPP must include the following:

4.2.2.1 *Activities at Facility.* description of the nature of the industrial activity(ies) at your facility;

4.2.2.2 *General Location Map.* a general location map (*e.g.,* U.S.G.S. quadrangle, or other map) with enough detail to identify the location of your facility and the receiving waters within one mile of the facility;

4.2.2.3 *A legible site map identifying the following:*

4.2.2.3.1 Directions of storm water flow (*e.g,* use arrows to show which ways storm water will flow);

4.2.2.3.2 Locations of all existing structural BMPs;

4.2.2.3.3 Locations of all surface water bodies;

4.2.2.3.4 Locations of potential pollutant sources identified under 4.2.4 and where significant materials are exposed to precipitation;

4.2.2.3.5 Locations where major spills or leaks identified under 4.2.5 have occurred;

4.2.2.3.6 Locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, and liquid storage tanks;

4.2.2.3.7 Locations of storm water outfalls and an approximate outline of the area draining to each outfall;

4.2.2.3.8 Location and description of non-storm water discharges;

4.2.2.3.9 Locations of the following activities where such activities are exposed to precipitation: processing and storage areas; access roads, rail cars and tracks; the location of transfer of substance in bulk; and machinery;

4.2.2.3.10 Location and source of runoff from adjacent property containing significant quantities of pollutants of concern to the facility (an evaluation of how the quality of the storm water running onto your facility impacts your storm water discharges may be included).

4.2.3 Receiving Waters and Wetlands

You must provide the name of the nearest receiving water(s), including intermittent streams, dry sloughs, arroyos and the areal extent and description of wetland or other ''special aquatic sites '' (see Part 12 for definition) that may receive discharges from your facility.

4.2.4 Summary of Potential Pollutant Sources

You must identify each separate area at your facility where industrial materials or activities are exposed to storm water. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product. For each, separate area identified, the description must include:

4.2.4.1 *Activities in Area.* A list of the activities (*e.g.,* material storage, equipment fueling and cleaning, cutting steel beams); and

4.2.4.2 *Pollutants.* A list of the associated pollutant(s) or pollutant parameter(s) (*e.g.,* crankcase oil, iron, biochemical oxygen demand, pH, *etc.*) for each activity. The pollutant list must include all significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three (3) years before being covered under this permit and the present.

4.2.5 Spills and Leaks

You must clearly identify areas where potential spills and leaks, which can contribute pollutants to storm water discharges, can occur, and their accompanying drainage points. For areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility to be covered under this permit, you must provide a list of significant spills and leaks of toxic or hazardous pollutants that occurred during the three (3) year period prior to the date of the submission of a Notice of Intent (NOI) . Your list must be updated if significant spills or leaks occur in exposed areas of your facility during the time you are covered by the permit.

Significant spills and leaks include, but are not limited to releases of oil or hazardous substances in excess of quantities that are reportable under CWA § 311 (see 40 CFR 110.10 and 40 CFR 117.21) or section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Significant spills may also include releases of oil or hazardous substances that are not in excess of reporting requirements.

4.2.6 Sampling Data

You must provide a summary of existing storm water discharge sampling data taken at your facility. All storm water sampling data collected during the term of this permit must also be summarized and included in this part of the SWPPP.

4.2.7 Storm Water Controls

4.2.7.1 *Description of Existing and Planned BMPs.* Describe the type and location of existing non-structural and structural best management practices (BMPs) selected for each of the areas where industrial materials or activities

are exposed to storm water. All the areas identified in Part 4.2.4 should have a BMP(s) identified for the area's discharges. For areas where BMPs are not currently in place, describe appropriate BMPs that you will use to control pollutants in storm water discharges. Selection of BMPs should take into consideration:

4.2.7.1.1 The quantity and nature of the pollutants, and their potential to impact the water quality of receiving waters;

4.2.7.1.2 Opportunities to combine the dual purposes of water quality protection and local flood control benefits (including physical impacts of high flows on streams—*e.g.,* bank erosion, impairment of aquatic habitat, etc.);

4.2.7.1.3 Opportunities to offset the impact of impervious areas of the facility on ground water recharge and base flows in local streams (taking into account the potential for ground water contamination—See ''User's Guide to the MSGP–2000'' section on groundwater considerations).

4.2.7.2 *BMP Types to be Considered.* The following types of structural, non-structural and other BMPs must be considered for implementation at your facility. Describe how each is, or will be, implemented. This requirement may have been fulfilled with the area-specific BMPs identified under Part 4.2.7.2, in which case the previous description is sufficient. However, many of the following BMPs may be more generalized or non site-specific and therefore not previously considered. If you determine that any of these BMPs are not appropriate for your facility, you must include an explanation of why they are not appropriate. The BMP examples listed below are not intended to be an exclusive list of BMPs that you may use. You are encouraged to keep abreast of new BMPs or new applications of existing BMPs to find the most cost effective means of permit compliance for your facility. If BMPs are being used or planned at the facility which are not listed here (*e.g.,* replacing a chemical with a less toxic alternative, adopting a new or innovative BMP, etc.), include descriptions of them in this section of the SWPPP.

4.2.7.2.1 *Non-Structural BMPs.*

4.2.7.2.1.1 *Good Housekeeping:* You must keep all exposed areas of the facility in a clean, orderly manner where such exposed areas could contribute pollutants to storm water discharges. Common problem areas include: around trash containers, storage areas and loading docks. Measures must also include: a schedule for regular pickup and disposal of garbage and waste materials; routine inspections for leaks and conditions of drums, tanks and containers.

4.2.7.2.1.2 *Minimizing Exposure:* Where practicable, industrial materials and activities should be protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, or runoff.

Note: Eliminating exposure at all industrial areas may make the facility eligible for the 40 CFR 122.26(g) ''No Exposure'' exclusion from needing to have a permit.

4.2.7.2.1.3 *Preventive Maintenance:* You must have a preventive maintenance program which includes timely inspection and maintenance of storm water management devices, (*e.g.,* cleaning oil/water separators, catch basins) as well as inspecting, testing, maintaining and repairing facility equipment and systems to avoid breakdowns or failures that may result in discharges of pollutants to surface waters.

4.2.7.2.1.4 *Spill Prevention and Response Procedures:* You must describe the procedures which will be followed for cleaning up spills or leaks. Those procedures, and necessary spill response equipment, must be made available to those employees that may cause or detect a spill or leak. Where appropriate, you must explain existing or planned material handling procedures, storage requirements, secondary containment, and equipment (*e.g.,* diversion valves), which are intended to minimize spills or leaks at the facility. Measures for cleaning up hazardous material spills or leaks must be consistent with applicable RCRA regulations at 40 CFR Part 264 and 40 CFR Part 265.

4.2.7.2.1.5 *Routine Facility Inspections:* In addition to or as part of the comprehensive site evaluation required under Part 4.9, you must have qualified facility personnel inspect all areas of the facility where industrial materials or activities are exposed to storm water. The inspections must include an evaluation of existing storm water BMPs. Your SWPPP must identify how often these inspections will be conducted. You must correct any deficiencies in implementation of your SWP3 you find as soon as practicable, but not later than within 14 days of the inspection. You must document in your SWPPP the results of your inspections and the corrective actions you took in response to any deficiencies or opportunities for improvement that you identify.

4.2.7.2.1.6 *Employee Training:* You must describe the storm water employee training program for the facility. The description should include the topics to be covered, such as spill response, good housekeeping and material management practices, and must identify periodic dates (*e.g.,* every 6 months during the months of July and January) for such training. You must provide employee training for all employees that work in areas where industrial materials or activities are exposed to storm water, and for employees that are responsible for implementing activities identified in the SWPPP (*e.g.,* inspectors, maintenance people). The employee training should inform them of the components and goals of your SWPPP.

4.2.7.2.2 *Structural BMPs.*

4.2.7.2.2.1 *Sediment and Erosion Control:* You must identify the areas at your facility which, due to topography, land disturbance (*e.g.,* construction), or other factors, have a potential for significant soil erosion. You must describe the structural, vegetative, and/or stabilization BMPs that you will be implementing to limit erosion.

4.2.7.2.2.2 *Management of Runoff:* You must describe the traditional storm water management practices (permanent structural BMPs other than those which control the generation or source(s) of pollutants) that currently exist or that are planned for your facility. These types of BMPs typically are used to divert, infiltrate, reuse, or otherwise reduce pollutants in storm water discharges from the site. All BMPs that you determine are reasonable and appropriate, or are required by a State or local authority; or are necessary to maintain eligibility for the permit (see Part 1.2.3—Limitations on Coverage) must be implemented and maintained. Factors to consider when you are selecting appropriate BMPs should include: (1) The industrial materials and activities that are exposed to storm water, and the associated pollutant potential of those materials and activities; and (2) the beneficial and potential detrimental effects on surface water quality, ground water quality, receiving water base flow (dry weather stream flow), and physical integrity of receiving waters. (See ''User's Guide to the MSGP–2000'' for Considerations in Selection of BMPs) Structural measures should be placed on upland soils, avoiding wetlands and floodplains, if possible. Structural BMPs may require a separate permit under section 404 of the CWA before installation begins.

4.2.7.2.2.3 *Example BMPs:* BMPs you could use include but are not limited to: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions;

infiltration of runoff onsite; and sequential systems (which combine several practices).

4.2.7.2.3 *Other Controls.* No solid materials, including floatable debris, may be discharged to waters of the United States, except as authorized by a permit issued under section 404 of the CWA. Off-site vehicle tracking of raw, final, or waste materials or sediments, and the generation of dust must be minimized. Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas must be minimized. Velocity dissipation devices must be placed at discharge locations and along the length of any outfall channel if they are necessary to provide a non-erosive flow velocity from the structure to a water course.

4.3 Maintenance

All BMPs you identify in your SWPPP must be maintained in effective operating condition. If site inspections required by Part 4.9 identify BMPs that are not operating effectively, maintenance must be performed before the next anticipated storm event, or as necessary to maintain the continued effectiveness of storm water controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable. In the case of non-structural BMPs, the effectiveness of the BMP must be maintained by appropriate means (*e.g.,* spill response supplies available and personnel trained, *etc.*).

4.4 Non-Storm Water Discharges

4.4.1 Certification of Non-Storm Water Discharges

4.4.1.1 Your SWPPP must include a certification that all discharges (*i.e.,* outfalls) have been tested or evaluated for the presence of non-storm water. The certification must be signed in accordance with Part 9.7 of this permit, and include:

4.4.1.1.1 The date of any testing and/or evaluation;

4.4.1.1.2 Identification of potential significant sources of non-storm water at the site;

4.4.1.1.3 A description of the results of any test and/or evaluation for the presence of non-storm water discharges;

4.4.1.1.4 A description of the evaluation criteria or testing method used; and

4.4.1.1.5 A list of the outfalls or onsite drainage points that were directly observed during the test.

4.4.1.2 You do not need to sign a new certification if one was already completed for either the 1992 baseline Industrial General Permit or the 1995 Multi-sector General Permit and you have no reason to believe conditions at the facility have changed.

4.4.1.3 If you are unable to provide the certification required (testing for non-storm water discharges), you must notify the Director 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification must describe:

4.4.1.3.1 Reason(s) why certification was not possible;

4.4.1.3.2 The procedure of any test attempted;

4.4.1.3.3 The results of such test or other relevant observations; and

4.4.1.3.4 Potential sources of non-storm water discharges to the storm sewer.

4.4.1.4 A Copy of the notification must be included in the SWPPP at the facility. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

4.4.2 Allowable Non-Storm Water Discharges

4.4.2.1 Certain sources of non-storm water are allowable under this permit (see 1.2.2.2—Allowable Non-Storm Water Discharges). In order for these discharges to be allowed, your SWPPP must include:

4.4.2.1.1 Identification of each allowable non-storm water source;

4.4.2.1.2 The location where it is likely to be discharged; and

4.4.2.1.3 Descriptions of appropriate BMPs for each source.

4.4.2.2 Except for flows from fire fighting activities, you must identify in your SWPPP all sources of allowable non-storm water that are discharged under the authority of this permit.

4.4.2.3 If you include mist blown from cooling towers amongst your allowable non-storm water discharges, you must specifically evaluate the potential for the discharges to be contaminated by chemicals used in the cooling tower and determined that the levels of such chemicals in the discharges would not cause or contribute to a violation of an applicable water quality standard after implementation of the BMPs you have selected to control such discharges.

4.5 Documentation of Permit Eligibility Related to Endangered Species

Your SWPPP must include documentation supporting your determination of permit eligibility with regard to Part 1.2.3.6 (Endangered Species), including:

4.5.1 Information on whether listed endangered or threatened species, or critical habitat, are found in proximity to your facility;

4.5.2 Whether such species may be affected by your storm water discharges or storm water discharge-related activities;

4.5.3 Results of your Addendum A endangered species screening determinations; and

4.5.4 A description of measures necessary to protect listed endangered or threatened species, or critical habitat, including any terms or conditions that are imposed under the eligibility requirements of Part 1.2.3.6. If you fail to describe and implement such measures, your discharges are ineligible for coverage under this permit.

4.6 Documentation of Permit Eligibility Related to Historic Places

Your SWPPP must include documentation supporting your determination of permit eligibility with regard to Part 1.2.3.7 (Historic Places), including:

4.6.1 Information on whether your storm water discharges or storm water discharge-related activities would have an effect on a property that is listed or eligible for listing on the National Register of Historic Places;

4.6.2 Where effects may occur, any written agreements you have made with the State Historic Preservation Officer, Tribal Historic Preservation Officer, or other Tribal leader to mitigate those effects;

4.6.3 Results of your Addendum B historic places screening determinations; and

4.6.4 Description of measures necessary to avoid or minimize adverse impacts on places listed, or eligible for listing, on the National Register of Historic Places, including any terms or conditions that are imposed under the eligibility requirements of Part 1.2.3.7 of this permit. If you fail to describe and implement such measures, your discharges are ineligible for coverage under this permit.

4.7 Copy of Permit Requirements

You must include a copy of this permit in your SWPPP.

Note: The confirmation of coverage letter you receive from the NOI Processing Center assigning your permit number IS NOT your permit—it merely acknowledges that your NOI has been accepted and you have been authorized to discharge subject to the terms and conditions of today's permit.

4.8 Applicable State, Tribal or Local Plans

Your SWPPP must be consistent (and updated as necessary to remain

consistent) with applicable State, Tribal and/or local storm water, waste disposal, sanitary sewer or septic system regulations to the extent these apply to your facility and are more stringent than the requirements of this permit.

4.9 Comprehensive Site Compliance Evaluation

4.9.1 Frequency and Inspectors

You must conduct facility inspections at least once a year. The inspections must be done by qualified personnel provided by you. The qualified personnel you use may be either your own employees or outside consultants that you have hired, provided they are knowledgeable and possess the skills to assess conditions at your facility that could impact storm water quality and assess the effectiveness of the BMPs you have chosen to use to control the quality of your storm water discharges. If you decide to conduct more frequent inspections, your SWPPP must specify the frequency of inspections.

4.9.2 Scope of the Compliance Evaluation

Your inspections must include all areas where industrial materials or activities are exposed to storm water, as identified in 4.2.4, and areas where spills and leaks have occurred within the past 3 years. Inspectors should look for: (a) Industrial materials, residue or trash on the ground that could contaminate or be washed away in storm water; (b) leaks or spills from industrial equipment, drums, barrels, tanks or similar containers; (c) offsite tracking of industrial materials or sediment where vehicles enter or exit the site; (d) tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas and (e) for evidence of, or the potential for, pollutants entering the drainage system. Results of both visual and any analytical monitoring done during the year must be taken into consideration during the evaluation. Storm water BMPs identified in your SWPPP must be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they must be inspected to see whether BMPs are effective in preventing significant impacts to receiving waters. Where discharge locations are inaccessible, nearby downstream locations must be inspected if possible.

4.9.3 Follow-Up Actions

Based on the results of the inspection, you must modify your SWPPP as necessary (*e.g.,* show additional controls on map required by Part 4.2.2.3; revise description of controls required by Part 4.2.7 to include additional or modified BMPs designed to correct problems identified. You must complete revisions to the SWPPP within 14 calendar days following the inspection. If existing BMPs need to be modified or if additional BMPs are necessary, implementation must be completed before the next anticipated storm event, if practicable, but not more than twelve (12) weeks after completion of the comprehensive site evaluation.

4.9.4 Compliance Evaluation Report

You must insure a report summarizing the scope of the inspection, name(s) of personnel making the inspection, the date(s) of the inspection, and major observations relating to the implementation of the SWPPP is completed and retained as part of the SWPPP for at least three years from the date permit coverage expires or is terminated. Major observations should include: the location(s) of discharges of pollutants from the site; location(s) of BMPs that need to be maintained; location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location; and location(s) where additional BMPs are needed that did not exist at the time of inspection. You must retain a record of actions taken in accordance with Part 4.9 of this permit as part of the Storm Water Pollution Prevention Plan for at least three years from the date that permit coverage expires or is terminated. The inspection reports must identify any incidents of non-compliance. Where an inspection report does not identify any incidents of non-compliance, the report must contain a certification that the facility is in compliance with the Storm Water Pollution Prevention Plan and this permit. Both the inspection report and any reports of follow-up actions must be signed in accordance with Part 9.7 (reporting) of this permit.

4.9.5 Credit As a Routine Facility Inspection

Where compliance evaluation schedules overlap with inspections required under Part 4.2.7.2.1.5, your annual compliance evaluation may also be used as one of the Part 4.2.7.5 routine inspections.

4.10 Maintaining Updated SWPPP

You must amend the Storm Water Pollution Prevention Plan whenever:

4.10.1 there is a change in design, construction, operation, or maintenance at your facility which has a significant effect on the discharge, or potential for discharge, of pollutants from your facility;

4.10.2 During inspections, monitoring, or investigations by you or by local, State, Tribal or Federal officials it is determined the SWPPP is ineffective in eliminating or significantly minimizing pollutants from sources identified under 4.2.4, or is otherwise not achieving the general objectives of controlling pollutants in discharges from your facility.

4.11 Signature, Plan Review and Making Plans Available

4.11.1 You must sign your SWPPP in accordance with Part 9.7, and retain the plan on-site at the facility covered by this permit (see Part 8 for records retention requirements).

4.11.2 You must keep a copy of the SWPPP on-site or locally available to the Director for review at the time of an on-site inspection. You must make your SWPPP available upon request to the Director, a State, Tribal or local agency approving storm water management plans, or the operator of a municipal separate storm sewer receiving discharge from the site. Also, in the interest of the public's right to know, you must provide a copy of your SWPPP to the public if requested in writing to do so.

4.11.3 The Director may notify you at any time that your SWPPP does not meet one or more of the minimum requirements of this permit. The notification will identify provisions of this permit which are not being met, as well as the required modifications. Within thirty (30) calendar days of receipt of such notification, you must make the required changes to the SWPPP and submit to the Director a written certification that the requested changes have been made.

4.11.4 You must make the SWPPP available to the USFWS or NMFS upon request.

4.12 Additional Requirements for Storm Water Discharges Associated With Industrial Activity From Facilities Subject to EPCRA Section 313 Reporting Requirements

Potential pollutant sources for which you have reporting requirements under EPCRA 313 must be identified in your summary of potential pollutant sources as per Part 4.2.4. Note this additional requirement only applies to you if you are subject to reporting requirements under EPCRA 313.

5. Monitoring Requirements and Numeric Limitations

There are five individual and separate categories of monitoring requirements and numeric limitations that your facility may be subject to under this

permit. The monitoring requirements and numeric limitations applicable to your facility depend on a number of factors, including: (1) The types of industrial activities generating storm water runoff from your facility, and (2) the state or tribe where your facility is located. Part 6 identifies monitoring requirements applicable to specific sectors of industrial activity. Part 13 contains additional requirements that apply only to facilities located in a particular State or Indian country land. You must review Parts 5, 6 and 13 of the permit to determine which monitoring requirements and numeric limitations apply to your facility. Unless otherwise specified, limitations and monitoring requirements under Parts 5, 6, and 13 are additive.

Sector-specific monitoring requirements and limitations are applied discharge by discharge at facilities with co-located activities. Where storm water from the co-located activities are co-mingled, the monitoring requirements and limitations are additive. Where more than one numeric limitation for a specific parameter applies to a discharge, compliance with the more restrictive limitation is required. Where monitoring requirements for a monitoring quarter overlap (*e.g.,* need to monitor TSS 1/year for a limit and also 1/quarter for benchmark monitoring), you may use a single sample to satisfy both monitoring requirements.

5.1 Types of Monitoring Requirements and Limitations

5.1.1 Quarterly Visual Monitoring

The requirements and procedures for quarterly visual monitoring are applicable to all facilities covered under this permit, regardless of your facility's sector of industrial activity.

5.1.1.1 You must perform and document a quarterly visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The visual examination must be made during daylight hours (*e.g.,* normal working hours). If no storm event resulted in runoff from the facility during a monitoring quarter, you are excused from visual monitoring for that quarter provided you document in your monitoring records that no runoff occurred. You must sign and certify the documentation in accordance with Part 9.7.

5.1.1.2 Your visual examinations must be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging from your facility. The examination must document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples must be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The 72-hour storm interval is waived when the preceding measurable storm did not yield a measurable discharge, or if you are able to document that less than a 72-hour interval is representative for local storm events during the sampling period. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term. If no qualifying storm event resulted in runoff from the facility during a monitoring quarter, you are excused from visual monitoring for that quarter provided you document in your monitoring records that no qualifying storm event occurred that resulted in storm water runoff during that quarter. You must sign and certify the documentation in accordance with Part 9.7.

5.1.1.3 You must maintain your visual examination reports onsite with the Storm Water Pollution Prevention Plan. The report must include the examination date and time, examination personnel, the nature of the discharge (*i.e.,* runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

5.1.1.4 Inactive and Unstaffed Sites: When you are unable to conduct visual storm water examinations at an inactive and unstaffed site, you may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. If you exercise this waiver, you must maintain a certification with the Storm Water Pollution Prevention Plan stating that the site is inactive and unstaffed and that performing visual examinations during a qualifying event is not feasible. You must sign and certify the waiver in accordance with Part 9.7.

5.1.2 Benchmark Monitoring of Discharges Associated With Specific Industrial Activities

Table 5–1 identifies the specific industrial sectors subject to the Benchmark Monitoring requirements of this permit and the industry-specific pollutants of concern. You must refer to the tables found in the individual Sectors in Part 6 for Benchmark Monitoring Cut-Off Concentrations. If your facility has co-located activities (see Part 1.2.1.1) described in more than one sector in Part 6, you must comply with all applicable benchmark monitoring requirements from each sector.

The results of benchmark monitoring are primarily for your use to determine the overall effectiveness of your SWPPP in controlling the discharge of pollutants to receiving waters. Benchmark values, included in Part 6 of this permit, are not viewed as effluent limitations. An exceedance of a benchmark value does not, in and of itself, constitute a violation of this permit. While exceedance of a benchmark value does not automatically indicate that violation of a water quality standard has occurred, it does signal that modifications to the SWPPP may be necessary. In addition, exceedance of benchmark values may identify facilities that would be more appropriately covered under an individual, or alternative general permit where more specific pollution prevention controls could be required.

TABLE 5–1.—INDUSTRY SECTORS/SUB-SECTORS SUBJECT TO BENCHMARK MONITORING

MSGP sector [1]	Industry sub-sector	Required parameters for benchmark monitoring
A	General Sawmills and Planing Mills	COD, TSS, Zinc.
	Wood Preserving Facilities	Arsenic, Copper.
	Log Storage and Handling	TSS.
	Hardwood Dimension and Flooring Mills	COD, TSS.
B	Paperboard Mills	COD.

TABLE 5–1.—INDUSTRY SECTORS/SUB-SECTORS SUBJECT TO BENCHMARK MONITORING—Continued

MSGP sector [1]	Industry sub-sector	Required parameters for benchmark monitoring
C	Industrial Inorganic Chemicals	Aluminum, Iron, Nitrate + Nitrite N.
	Plastics, Synthetic Resins, etc.	Zinc.
	Soaps, Detergents, Cosmetics, Perfumes	Nitrate + Nitrite N, Zinc.
	Agricultural Chemicals	Nitrate + Nitrite N, Lead, Iron, Zinc, Phosphorus.
D	Asphalt Paving and Roofing Materials	TSS.
E	Clay Products	Aluminum.
	Concrete Products	TSS, Iron.
F	Steel Works, Blast Furnaces, and Rolling and Finishing Mills.	Aluminum, Zinc.
	Iron and Steel Foundries	Aluminum, TSS, Copper, Iron, Zinc.
	Non-Ferrous Rolling and Drawing	Copper, Zinc.
	Non-Ferrous Foundries (Castings)	Copper, Zinc.
G [2]	Copper Ore Mining and Dressing	COD, TSS, Nitrate + Nitrite N
H	Coal Mines and Coal-Mining Related Facilities	TSS, Aluminum, Iron
J	Dimension Stone, Crushed Stone, and Nonmetallic Minerals (except fuels).	TSS.
	Sand and Gravel Mining	Nitrate + Nitrite N, TSS.
K	Hazardous Waste Treatment Storage or Disposal	Ammonia, Magnesium, COD, Arsenic, Cadmium, Cyanide, Lead, Mercury, Selenium, Silver.
L	Landfills, Land Application Sites, and Open Dumps	Iron, TSS.
M	Automobile Salvage Yards	TSS, Aluminum, Iron, Lead.
N	Scrap Recycling	Copper, Aluminum, Iron, Lead, Zinc, TSS, COD.
O	Steam Electric Generating Facilities	Iron.
Q	Water Transportation Facilities	Aluminum, Iron, Lead, Zinc.
S	Airports with deicing activities [3]	BOD, COD, Ammonia, pH.
U	Grain Mill Products	TSS.
	Fats and Oils	BOD, COD, Nitrate + Nitrite N, TSS.
Y	Rubber Products	Zinc.
AA	Fabricated Metal Products Except Coating	Iron, Aluminum, Zinc, Nitrate + Nitrite N.
	Fabricated Metal Coating and Engraving	Zinc, Nitrate + Nitrite N.

[1] Table does not include parameters for compliance monitoring under effluent limitations guidelines.
[2] See Sector G (Part 6.G) for additional monitoring discharges from waste rock and overburden piles from active ore mining or dressing facilities.
[3] Monitoring requirement is for airports with deicing activities that utilize more than 100 tons of urea or more than 100,000 gallons of ethylene glycol per year.

5.1.2.1 *Monitoring Periods for Benchmark Monitoring.* Unless otherwise specified in Part 6, benchmark monitoring periods are October 1, 2001 to September 30, 2002 (year two of the permit) and October 1, 2003 to September 30, 2004 (year four of the permit). If your facility falls within a Sector(s) required to conduct benchmark monitoring, you must monitor quarterly (4 times a year) during at least one, and potentially both, monitoring periods; unless otherwise specified in the sector-specific requirements of Part 6. Depending on the results of the 2001–2002 monitoring year, you may not be required to conduct benchmark monitoring in the 2003–2004 monitoring year (see Part 5.1.2.2).

5.1.2.2 *Benchmark Monitoring Year 2003–2004 Waivers for Facilities Testing Below Benchmark Values.* All of the provisions of Part 5.1.2.2 are available to permittees except as noted in Part 6. Waivers from benchmark monitoring are available to facilities whose discharges are below benchmark values, thus there is an incentive for facilities to improve the effectiveness of their SWPPPs in eliminating discharges of pollutants and avoid the cost of monitoring.

On both a parameter by parameter and outfall by outfall basis, you are not required to conduct sector-specific benchmark monitoring in the 2003–2004 monitoring year provided:

- You collected samples for all four quarters of the 2001–2002 monitoring year and the average concentration was below the benchmark value in Part 6; and
- You are not subject to a numeric limitation or State/Tribal-specific monitoring requirement for that parameter established in Part 5.2 or Part 13; and
- You include a certification in the SWPPP that based on current potential pollutant sources and BMPs used, discharges from the facility are reasonably expected to be essentially the same (or cleaner) compared to when the benchmark monitoring for the 2001–2002 monitoring year was done.

5.1.2.3 *Inactive and Unstaffed Sites.* If you are unable to conduct benchmark monitoring at an inactive and unstaffed site, you may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. If you exercise this waiver, you must maintain a certification with your Storm Water Pollution Prevention Plan stating that the site is inactive and unstaffed and that performing benchmark monitoring during a qualifying storm event is not feasible. You must sign and certify the waiver in accordance with Part 9.7.

5.1.3 Coal Pile Runoff

5.1.3.1 If your facility has discharges of storm water from coal storage piles, you must comply with the limitations and monitoring requirements of Table 5–2 for all discharges containing the coal pile runoff, regardless of your facility's sector of industrial activity.

TABLE 5–2.—NUMERIC LIMITATIONS FOR COAL PILE RUNOFF

Parameter	Limit	Monitoring frequency	Sample type
Total Suspended Solids (TSS)	50 mg/L, max	1/year	Grab.
pH	6.0–9.0 min. and max	1/year	Grab.

5.1.3.2 You must not dilute coal pile runoff with storm water or other flows in order to meet this limitation.

5.1.3.3 If your facility is designed, constructed and operated to treat the volume of coal pile runoff that is associated with a 10-year, 24-hour rainfall event, any untreated overflow of coal pile runoff from the treatment unit is not subject to the 50 mg/L limitation for total suspended solids.

5.1.3.4 You must collect and analyze your samples in accordance with Part 5.2.2. Results of the testing must be retained and reported in accordance with Part 8 and 9.16.

5.1.4 Compliance Monitoring for Discharges Subject to Numerical Effluent Limitation Guidelines

Table 1–2 of Part 1.2.2.1.3 of the permit identifies storm water discharges subject to effluent limitation guidelines that are authorized for coverage under the permit. Facilities subject to storm water effluent limitation guidelines are required to monitor such discharges to evaluate compliance with numerical effluent limitations. Industry-specific numerical limitations and compliance monitoring requirements are described in Part 6 of the permit.

5.1.5 Monitoring for Limitations Required by a State or Tribe

Unless otherwise specified in Part 13 (state/tribal-specific permit conditions), you must sample once per year for any permit limit established as a result of a state or tribe's conditions for certification of this permit under CWA § 401.

5.2 Monitoring Instructions

5.2.1 Monitoring Periods

If you are required to conduct monitoring on an annual or quarterly basis, you must collect your samples within the following time periods (unless otherwise specified in Part 6):

- The monitoring year is from October 1 to September 30
- If your permit coverage was effective less than one month from the end of a quarterly or yearly monitoring period, your first monitoring period starts with the next respective monitoring period. (*e.g.*, if permit coverage begins June 5th, you would not need to start quarterly sampling until the July—September quarter, but you would only have from June 5th to September 30th to complete that year's annual monitoring)

5.2.2 Collection and Analysis of Samples

You must assess your sampling requirements on an outfall by outfall basis. You must collect and analyze your samples in accordance with the requirements of Part 9.16.

5.2.2.1 *When and How to Sample.* Take a minimum of one grab sample from the discharge associated with industrial activity resulting from a storm event with at least 0.1 inch of precipitation (defined as a ''measurable'' event), providing the interval from the preceding measurable storm is at least 72 hours. The 72-hour storm interval is waived when the preceding measurable storm did not yield a measurable discharge, or if you are able to document that less than a 72-hour interval is representative for local storm events during the sampling period.

Take the grab sample during the first 30 minutes of the discharge. If it is not practicable to take the sample during the first 30 minutes, sample during the first hour of discharge and describe why a grab sample during the first 30 minutes was impracticable. Submit this information on or with the discharge monitoring report (see Part 7.1). If the sampled discharge commingles with process or non-process water, attempt to sample the storm water discharge before it mixes with the non-storm water.

To get help with monitoring, consult the *Guidance Manual for the Monitoring and Reporting Requirements of the NPDES Storm Water Multi-Sector General Permit* which can be down loaded from the EPA Web Site at *www.epa.gov/OWM/sw/industry/index.htm.* It can also be ordered from the Office of Water Resource Center by calling 202–260–7786.

5.2.3 Storm Event Data

Along with the results of your monitoring, you must provide the date and duration (in hours) of the storm event(s) samples; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event samples and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge samples.

5.2.4 Representative Outfalls—Essential Identical Discharges

If your facility has two (2) or more outfalls that you believe discharge substantially identical effluents, based on similarities of the industrial activities, significant materials or storm water management practices occurring within the outfalls' drainage areas, you may test the effluent of just one of the outfalls and report that the quantitative data also applies to the substantially identical outfall(s). For this to be permissible, you must describe in the Storm Water Pollution Prevention Plan and include in the Discharge Monitoring Report the following: locations of the outfalls; why the outfalls are expected to discharge substantially identical effluents; estimates of the size of the drainage area (in square feet) for each of the outfalls; and an estimate of the runoff coefficient of the drainage areas (low: under 40 percent; medium: 40 to 65 percent; high: above 65 percent). Note: Page 107 of the *NPDES Storm Water Sampling Guidance Document* (EPA 800/B–92–001) lists criteria for substantially identical outfalls (available on EPA's web site at *http://www.epa.gov/owm/sw/industry/).*

5.3 General Monitoring Waivers

Unless specifically stated otherwise, the following waivers may be applied to any monitoring required under this permit.

5.3.1 Adverse Climatic Conditions Waiver

When adverse weather conditions prevent the collection of samples, take a substitute sample during a qualifying storm event in the next monitoring period, or four samples per monitoring year when weather conditions do not allow for samples to be spaced evenly during the year. Adverse conditions (*i.e.*, those which are dangerous or create inaccessibility for personnel) may include such things as local flooding, high winds, electrical storms, or situations which otherwise make sampling impracticable such as drought or extended frozen conditions.

5.3.2 Alternative Certification of ''Not Present or No Exposure''

You are not subject to the analytical monitoring requirements of Part 5.1.2 provided:

5.3.2.1 You make a certification for a given outfall, or on a pollutant-by-pollutant basis in lieu of monitoring required under Part 5.1.2, that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period; and

5.3.2.2 Your certification is signed in accordance with Part 9.7, retained in the Storm Water Pollution Prevention Plan, and submitted to EPA in accordance with Part 7. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required Part 7; and

5.3.2.3 If you cannot certify for an entire period, you must submit the date exposure was eliminated and any monitoring required up until that date; and

5.3.2.4 No numeric limitation or State-specific monitoring requirement for that parameter is established in Part 5 or Part 13.

5.4 Monitoring Required by the Director

The Director may provide written notice to any facility, including those otherwise exempt from the sampling requirements of Parts 5, 6 and 12, requiring discharge sampling for a specific monitoring frequency for specific parameters. Any such notice will briefly state the reasons for the monitoring, parameters to be monitored, frequency and period of monitoring, sample types, and reporting requirements.

5.5 Reporting Monitoring Results

Deadlines and procedures for submitting monitoring reports are contained in Part 7.

6. Sector-Specific Requirements for Industrial Activity

You only need to comply with the additional requirements of Part 6 that apply to the sector(s) of industrial activity at your facility. These sector-specific requirements are in addition to the ''basic'' requirements specified in Parts 1–5 and 7–13 of this permit.

6.A Sector A—Timber Products

6.A.1 Covered Storm Water Discharges

The requirements in Part 6.A apply to storm water discharges associated with industrial activity from Timber Products facilities as identified by the SIC Codes specified under Sector A in Table 1–1 of Part 1.2.1.

6.A.2 Industrial Activities Covered by Sector A

The types of activities that permittees under Sector A are primarily engaged in are:

6.A.2.1 Cutting timber and pulpwood (those that have log storage or handling areas);

6.A.2.2 Mills, including merchant, lath, shingle, cooperage stock, planing, plywood and veneer;

6.A.2.3 Producing lumber and wood basic materials;

6.A.2.4 Wood preserving;

6.A.2.5 Manufacturing finished articles made entirely of wood or related materials except wood kitchen cabinet manufacturers (covered under Part 6.23);

6.A.2.6 Manufacturing wood buildings or mobile homes.

6.A.3 Special Coverage Conditions

6.A.3.1 *Prohibition of Discharges.* (See also Part 1.2.3.1) Not covered by this permit: storm water discharges from areas where there may be contact with the chemical formulations sprayed to provide surface protection. These discharges must be covered by a separate NPDES permit.

6.A.3.2 *Authorized Non-Storm Water Discharges.* (See also Part 1.2.3.1) Also authorized by this permit, provided the non-storm water component of the discharge is in compliance with SWPPP requirements in Part 4.2.7 (Controls): discharges from the spray down of lumber and wood product storage yards where no chemical additives are used in the spray down waters and no chemicals are applied to the wood during storage.

6.A.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.A.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Also identify where any of the following may be exposed to precipitation/surface runoff: processing areas; treatment chemical storage areas; treated wood and residue storage areas; wet decking areas; dry decking areas; untreated wood and residue storage areas; and treatment equipment storage areas.

6.A.4.2 *Inventory of Exposed Materials.* (See also Part 4.2.4) Where such information exists, if your facility has used chlorophenolic, creosote or chromium-copper-arsenic formulations for wood surface protection or preserving, identify the following: areas where contaminated soils, treatment equipment and stored materials still remain, and the management practices employed to minimize the contact of these materials with storm water runoff.

6.A.4.3 *Description of Storm Water Management Controls.* (See also Part 4.2.7). Describe and implement measures to address the following activities/sources: log, lumber and wood product storage areas; residue storage areas; loading and unloading areas; material handling areas; chemical storage areas; and equipment/vehicle maintenance, storage and repair areas. If your facility performs wood surface protection/preservation activities, address the specific BMPs for these activities.

6.A.4.4 *Good Housekeeping.* (See also Part 4.2.7.2.1.1). In areas where storage, loading/unloading and material handling occur, perform good housekeeping to limit the discharge of wood debris; minimize the leachate generated from decaying wood materials; and minimize the generation of dust.

6.A.4.5 *Inspections.* (See also Part 4.2.7.2.1.5). If your facility performs wood surface protection/preservation activities, inspect processing areas, transport areas and treated wood storage areas monthly to assess the usefulness of practices to minimize the deposit of treatment chemicals on unprotected soils and in areas that will come in contact with storm water discharges.

6.A.5 Monitoring and Reporting Requirements (See also Part 5)

TABLE A–1.—SECTOR-SPECIFIC NUMERIC LIMITATIONS AND BENCHMARK MONITORING

[Sector of permit affected/supplemental requirements]

Subsector (Discharge may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cut-off concentration [1]	Numeric limitation [2]
General Sawmills and Planning Mills (SIC 2421)	Chemical Oxygen Demand (COD).	120.0 mg/L.	
	Total Suspended Solids (TSS).	100 mg/L.	
	Total Zinc	0.117 mg/L.	
Wood Preserving (SIC 2491)	Total Arsenic	0.16854 mg/L.	
	Total Copper	0.0636 mg/L.	
Log Storage and Handling (SIC 2411)	Total Suspended Solids (TSS).	100 mg/L.	
Wet Decking Discharges at Log Storage and Handling Areas (SIC 2411).	pH		6.0–9.0 s.u.
	Debris (woody material such as bark, twigs, branches, heartwood, or sapwood).		No Discharge of debris that will not pass through a 2.54 cm (1″) diameter round opening.
Hardwood Dimension and Flooring Mills; Special Products Sawmills, not elsewhere classified; Millwork, Veneer, Plywood and Structural Wood; Wood Containers; Wood Buildings and Mobile Homes; Reconstituted Wood Products; and Wood Products Facilities not elsewhere classified (SIC Codes 2426, 2429, 2431–2439 (except 2434), 2448, 2449, 2451, 2452, 2593, and 2499).	Chemical Oxygen Demand (COD).	120.0 mg/L.	
	Total Suspended Solids (TSS).	100.0 mg/L.	

[1] Monitor once/quarter for the year 2 and year 4 monitoring years.
[2] Monitor once per year for each monitoring year.

6.B Sector B—Paper and Allied Products Manufacturing

6.B.1 Covered Storm Water Discharges

The requirements in Part 6.B apply to storm water discharges associated with industrial activity from Paper and Allied Products Manufacturing facilities as identified by the SIC Codes specified under Sector B in Table 1–1 of Part 1.2.1.

6.B.2 Industrial Activities Covered by Sector B

The types of activities that permittees under Sector B are primarily engaged in are:

6.B.2.1 Manufacture of pulps from wood and other cellulose fibers and from rags;

6.B.2.2 Manufacture of paper and paperboard into converted products, *i.e.* paper coated off the paper machine, paper bags, paper boxes and envelopes;

6.B.2.3 Manufacture of bags of plastic film and sheet.

6.B.3 Monitoring and Reporting Requirements (See also Part 5)

TABLE B–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring and cutoff concentration [1]	Numeric limitation
Part of Permit Affected/Supplemental Requirements			
Paperboard Mills (SIC Code 2631)	COD	120.0 mg/L.	

[1] Monitor once/quarter for the year 2 and year 4 monitoring years

6.C Sector C—Chemical and Allied Products Manufacturing

6.C.1 Covered Storm Water Discharges

The requirements in Part 6.C apply to storm water discharges associated with industrial activity from Chemical and Allied Products Manufacturing facilities as identified by the SIC Codes specified under Sector C in Table 1–1 of Part 1.2.1.

6.C.2 Industrial Activities Covered by Sector C

The requirements listed under this Part apply to storm water discharges associated with industrial activity from a facility engaged in manufacturing the following products:

6.C.2.1 basic industrial inorganic chemicals;

6.C.2.2 plastic materials and synthetic resins, synthetic rubbers, and cellulosic and other human made fibers, except glass;

6.C.2.3 soap and other detergents, including facilities producing glycerin from vegetable and animal fats and oils; speciality cleaning, polishing and sanitation preparations; surface active preparations used as emulsifiers, wetting agents and finishing agents, including sulfonated oils; and perfumes, cosmetics and other toilet preparations;

6.C.2.4 paints (in paste and ready mixed form); varnishes; lacquers; enamels and shellac; putties, wood fillers, and sealers; paint and varnish removers; paint brush cleaners; and allied paint producers;

6.C.2.5 industrial organic chemicals;

6.C.2.6 industrial and household adhesives, glues, caulking compounds, sealants, and linoleum, tile and rubber cements from vegetable, animal or synthetic plastic materials; explosives; printing ink, including gravure, screen process and lithographic inks; miscellaneous chemical preparations such as fatty acids, essential oils, gelatin (except vegetable), sizes, bluing, laundry sours, writing and stamp pad ink, industrial compounds such as boiler and heat insulating compounds, and chemical supplies for foundries;

6.C.2.7 ink and paints, including china painting enamels, indian ink, drawing ink, platinum paints for burnt wood or leather work, paints for china painting, artists' paints and artists' water colors;

6.C.2.8 nitrogenous and phosphatic basic fertilizers, mixed fertilizers, pesticides and other agricultural chemicals.

6.C.3 Limitations on Coverage

6.C.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.3) Not covered by this permit: non-storm water discharges containing inks, paints or substances (hazardous, nonhazardous, *etc.*) resulting from an onsite spill, including materials collected in drip pans; washwater from material handling and processing areas; and washwater from drum, tank or container rinsing and cleaning.

6.C.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.C.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Also identify where any of the following may be exposed to precipitation/surface runoff: processing and storage areas; access roads, rail cars and tracks; areas where substances are transferred in bulk; and operating machinery.

6.C.4.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following sources and activities that have potential pollutants associated with them: loading, unloading and transfer of chemicals; outdoor storage of salt, pallets, coal, drums, containers, fuels, fueling stations; vehicle and equipment maintenance/cleaning areas; areas where the treatment, storage or disposal (on- or off-site) of waste/wastewater occur; storage tanks and other containers; processing and storage areas; access roads, rail cars and tracks; areas where the transfer of substances in bulk occurs; and areas where machinery operates.

6.C.4.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1) As part of your good housekeeping program, include a schedule for regular pickup and disposal of garbage and waste materials, or adopt other appropriate measures to reduce the potential for discharging storm water that has contacted garbage or waste materials. Routinely inspect the condition of drums, tanks and containers for potential leaks.

6.C.5 Monitoring and Reporting Requirements (See also Part 5)

TABLE C–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cut-off concentration [1]	Numeric limitation [2]
Part of Permit Affected/Supplemental Requirements			
Phosphate Subcategory of the Fertilizer Manufacturing Point Source Category (40 CFR § 418.10)—applies to precipitation runoff, that during manufacturing or processing, comes into contact with any raw materials, intermediate product, finished product, by-products or waste product (SIC 2874).	Total Phosphorus (as P) ...	.....	105.0 mg/L, daily max. 35 mg/L, 30-day avg.
	Fluoride	.....	75.0 mg/L, daily max. 25.0 mg/L, 30-day avg.
Agricultural Chemicals (2873–2879)	Nitrate plus Nitrite Nitrogen	0.68 mg/L.	
	Total Recoverable Lead	0.0816 mg/L.	
	Total Recoverable Iron	1.0 mg/L.	
	Total Recoverable Zinc	0.117 mg/L.	
	Phosphorus	2.0 mg/L.	
Industrial Inorganic Chemicals (2812–2819)	Total Recoverable Aluminum	0.75 mg/L 1.0 mg/L	Nitrate plus Nitrite Nitrogen
	Total Recoverable Iron.	0.68 mg/L	
Soaps, Detergents, Cosmetics, and Perfumes (SIC 2841–2844).	Nitrate plus Nitrite Nitrogen	0.68 mg/L.	
	Total Recoverable Zinc	0.117 mg/L..	
Plastics, Synthetics, and Resins (SIC 2821–2824)	Total Recoverable Zinc	0.117 mg/L.	

[1] Monitor once/quarter for the year 2 and year 4 Monitoring Years.
[2] Monitor once/year for each Monitoring Year.

6.D Sector D—Asphalt Paving and Roofing Materials and Lubricant Manufacturers

6.D.1 Covered Storm Water Discharges

The requirements in Part 6.D apply to storm water discharges associated with industrial activity from Asphalt Paving and Roofing Materials and Lubricant Manufacturers facilities as identified by the SIC Codes specified under Sector D in Table 1–1 of Part 1.2.1.

6.D.2 Industrial Activities Covered by Sector D

The types of activities that permittees under Sector D are primarily engaged in are:

6.D.2.1 manufacturing asphalt paving and roofing materials;

6.D.2.2 portable asphalt plant facilities;

6.D.2.3 manufacturing lubricating oils and greases.

6.D.3 Limitations on Coverage

The following storm water discharges associated with industrial activity are not authorized by this permit:

6.D.3.1 discharges from petroleum refining facilities, including those that manufacture asphalt or asphalt products that are classified as SIC code 2911;

6.D.3.2 discharges from oil recycling facilities;

6.D.3.3 discharges associated with fats and oils rendering.

6.D.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.D.4.1 *Inspections.* (See also Part 4.2.7.2.1.5) Inspect at least once per month, as part of the maintenance program, the following areas: Material storage and handling areas, liquid storage tanks, hoppers/silos, vehicle and equipment maintenance, cleaning and fueling areas, material handling vehicles, equipment and processing areas. Ensure appropriate action is taken in response to the inspection by implementing tracking or follow up procedures.

6.D.5 Monitoring and Reporting Requirements. (See also part 5)

TABLE D–1.—SECTOR-SPECIFIC NUMERIC LIMITATIONS AND BENCHMARK MONITORING

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cut-off concentration [1]	Numeric Limitation [2]
Sector of Permit Affected/Supplemental Requirements			
Asphalt Paving and Roofing Materials (SIC 2951, 2952)	Total Suspended Solids (TSS).	100mg/L.	
Discharges from areas where production of asphalt paving and roofing emulsions occurs (SIC 2951, 2952).	TSS	.....	23.0 mg/L, daily max 15.0 mg/L 30-day avg.
	Oil and Grease	.....	15.0 mg/L daily max. 10mg/L, 30-day avg.
	pH	.....	6.0–9.0

[1] Monitor once/quarter for the year 2 and year 4 monitoring years.
[2] Monitor once per year for each monitoring year.

6.E Sector E—Glass, Clay, Cement, Concrete, and Gypsum Products

6.E.1 Covered Storm Water Discharges

The requirements in Part 6.E apply to storm water discharges associated with industrial activity from Glass, Clay, Cement, Concrete, and Gypsum Products facilities as identified by the SIC Codes specified under Sector E in Table 1–1 of part 1.2.1.

6.E.2 Industrial Activities Covered by Sector E

The requirements listed under this permit apply to storm water discharges associated with industrial activity from a facility engaged in either manufacturing the following products or performing the following activities:

6.E.2.1 flat, pressed, or blown glass or glass containers;

6.E.2.2 hydraulic cement;

6.E.2.3 clay products including tile and brick;

6.E.2.4 pottery and porcelain electrical supplies;

6.E.2.5 concrete products;

6.E.2.6 gypsum products;

6.E.2.7 minerals and earths, ground or otherwise treated;

6.E.2.8 non-clay refractories:

6.E.2.9. lime manufacturing

6.E.2.10 cut stone and stone products

6.E.2.11 asbestos products

6.E.2.12 mineral wool and mineral wool insulation products.

6.E.3 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.E.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify the locations of the following, as applicable: bag house or other dust control device; recycle/sedimentation pond, clarifier or other device used for the treatment of process wastewater, and the areas that drain to the treatment device.

6.E.3.2 *Good Housekeeping Measures.* (See also Part 4.2.2.3) With good housekeeping prevent or minimize the discharge of: spilled cement; aggregate (including sand or gravel); kiln dust; fly ash; settled dust; or other significant material in storm water from paved portions of the site that are exposed to storm water. Consider using regular sweeping or other equivalent measures to minimize the presence of these materials. Indicate in your SWPPP the frequency of sweeping or equivalent measures. Determine the frequency from the amount of industrial activity occurring in the area and the frequency of precipitation, but it must be performed at least once a week if cement, aggregate, kiln dust, fly ash or settled dust are being handled/processed. You must also prevent the exposure of fine granular solids (cement, fly ash, kiln dust, *etc.*) to storm water where practicable, by storing these materials in enclosed silos/hoppers, buildings or under other covering.

6.E.3.3 *Inspections.* (See also Part 4.2.7.2.1.5) Perform inspections while the facility is in operation and include all of the following areas exposed to storm water: material handling areas, above ground storage tanks, hoppers or silos, dust collection/containment systems, truck wash down/equipment cleaning areas.

6.E.3.4 *Certification.* (See also Part 4.4.1) For facilities producing ready-mix concrete, concrete block, brick or similar products, include in the non-storm water discharge certification a description of measures that insure that process waste water resulting from truck washing, mixers, transport buckets, forms or other equipment are discharged in accordance with NPDES requirements or are recycled.

6.E.4 Monitoring and Reporting Requirements. (See also Part 5)

TABLE E–1.—SECTOR-SPECIFIC NUMERIC LIMITATIONS AND BENCHMARK MONITORING

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cut-off concentration [1]	Numeric limitaiton [2]
Sector of Permit Affected/Supplemental Requirements			
Clay Product Manufacturers ..... (SIC 3245–3259,3261–3269)	Total Recoverable Aluminum.	0.75 mg/L	
Concrete and Gypsum Product Manufacturers (SIC 3271–3275).	TSS	100 mg/L	
	Total Recoverable Iron	1.0 mg/L	
Cement Manufacturing Facility, Material Storage Runoff: Any discharge composed of runoff that derives from the storage of materials including raw materials, intermediate products, finished products, and waste materials that are used in or derived from the manufacture of cement.	Total Suspended Solids (TTS≤.	50 mg/L daily max..	
	pH	.....	6.0–9.0 S.U.

[1] Monitor once/quarter for the year 2 and year 4 monitoring years.
[2] Monitor once per year for each monitoring year.

6.F Sector F—Primary Metals

6.F.1 Covered Storm Water Discharges

The requirements in Part 6.F apply to storm water discharges associated with industrial activity from Primary Metals facilities as identified by the SIC Codes specified under Sector F in Table 1–1 of Part 1.2.1.

6.F.2 Industrial Activities Covered by Sector F

The types of activities under this Part are facilities primarily engaged in are:

6.F.2.1 Steel works, blast furnaces, and rolling and finishing mills including: steel wire drawing and steel nails and spikes; cold-rolled steel sheet, strip, and bars; and steel pipes and tubes;

6.F.2.2 Iron and steel foundries, including: gray and ductile iron, malleable iron, steel investment, and steel foundries not elsewhere classified;

6.F.2.3 Primary smelting and refining of nonferrous metals, including: primary smelting and refining of copper, and primary production of aluminum;

6.F.2.4 Secondary smelting and refining of nonferrous metals;

6.F.2.5 Rolling, drawing, and extruding of nonferrous metals, including: rolling, drawing, and extruding of copper; rolling, drawing and extruding of nonferrous metals except copper and aluminum; and drawing and insulating of nonferrous wire;

6.F.2.6 Nonferrous foundries (castings), including: aluminum die-casting, nonferrous die-casting, except aluminum, aluminum foundries, copper foundries, and nonferrous foundries, except copper and aluminum;

6.F.2.7 Miscellaneous primary metal products, not elsewhere classified, including: metal heat treating, and primary metal products not elsewhere classified;

Activities covered include but are not limited to storm water discharges associated with cooking operations, sintering plants, blast furnaces, smelting operations, rolling mills, casting operations, heat treating, extruding, drawing, or forging all types of ferrous and nonferrous metals, scrap and ore.

6.F.3 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.F.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Also identify where any of the following activities may be exposed to precipitation/surface runoff: storage or disposal of wastes such as spent solvents/baths, sand, slag/dross; liquid storage tanks/drums; processing areas including pollution control equipment (*e.g.,* baghouses); and storage areas of raw material such as coal, coke, scrap, sand, fluxes, refractories or metal in any form. In addition, indicate where an accumulation of significant amounts of particulate matter could occur from such sources as furnace or oven emissions, losses from coal/coke handling operations, etc., and which could result in a discharge of pollutants to waters of the United States.

6.F.3.2 *Inventory of Exposed Material.* (See also Part 4.2.4) Include in the inventory of materials handled at the site that potentially may be exposed to precipitation/runoff, areas where deposition of particulate matter from process air emissions or losses during material handling activities are possible.

6.F.3.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1) As part of your good housekeeping program, include: a cleaning/maintenance program for all impervious areas of the facility where particulate matter, dust or debris may accumulate, especially areas where material loading/unloading, storage, handling and processing occur; the paving of areas where vehicle traffic or material storage occur but where vegetative or other stabilization methods are not practicable (institute a sweeping program in these areas too). For unstabilized areas where sweeping is not practicable, consider using storm water management devices such as sediment traps, vegetative buffer strips, filter fabric fence, sediment filtering boom, gravel outlet protection or other equivalent measures that effectively trap or remove sediment.

6.F.3.4 *Inspections.* (See also Part 4.2.7.2.1.5) Conduct inspections routinely, or at least on a quarterly basis, and address all potential sources of pollutants, including (if applicable): air pollution control equipment (*e.g.,* baghouses, electrostatic precipitators, scrubbers and cyclones) for any signs of degradation (*e.g.,* leaks, corrosion or improper operation) that could limit their efficiency and lead to excessive emissions. Consider monitoring air flow at inlets/outlets (or use equivalent measures) to check for leaks (*e.g.*, particulate deposition) or blockage in ducts. Also inspect all process and material handling equipment (*e.g.,* conveyors, cranes and vehicles) for leaks, drips or the potential loss of material; and material storage areas (*e.g.*, piles, bins or hoppers for storing coke, coal, scrap or slag, as well as chemicals stored in tanks/drums) for signs of material losses due to wind or storm water runoff.

6.F.4 Monitoring and Reporting Requirements. (See also Part 5)

TABLE F–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

Sector of permit affected/supplemental requirements—			
Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cutoff concentration [1]	Numeric limitation
Steel Works, Blast Furnaces, and Rolling and Finishing Mills (SIC 3312–3317).	Total Recoverable Aluminum	0.75 mg/L	
	Total Recoverable Zinc	0.117 mg/L.	
Iron and Steel Foundries (SIC 3321–3325)	Total Recoverable Aluminum	0.75 mg/L.	
	Total Suspended Solids	100 mg/L	
	Total Recoverable Copper	0.0636 mg/L	
	Total Recoverable Iron	1.0 mg/L	
	Total Recoverable Zinc	0.117 mg/L.	
Rolling, Drawing, and Extruding of Non-Ferrous Metals (SIC 3351–3357).	Total Recoverable Copper	0.0636 mg/L	
	Total Recoverable Zinc	0.117 mg/L.	
Non-Ferrous Foundries (SIC 3363–3369)	Total Recoverable Copper	0.636 mg/L.	
	Total Recoverable Zinc	0.117 mg/L.	

[1] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

6.G Sector G—Metal Mining (Ore Mining and Dressing)

6.G.1 Covered Storm Water Discharges

The requirements in Part 6.G apply to storm water discharges associated with industrial activity from active, temporarily inactive and inactive metal mining and ore dressing facilities, including mines abandoned on Federal Lands, as identified by the SIC Codes specified under Sector G in Table 1–1 of Part 1.2.1. Coverage is required for facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate product, finished product, byproduct, or waste product located on the site of the operation.

6.G.1.1 *Covered Discharges from Inactive Facilities:* All storm water discharges.

6.G.1.2 *Covered Discharges from Active and Temporarily Inactive Facilities:* Only the storm water discharges from the following areas are covered: waste rock/overburden piles if composed entirely of storm water and not combining with mine drainage; topsoil piles; offsite haul/access roads; onsite haul/access roads constructed of waste rock/overburden/spent ore if composed entirely of storm water and not combining with mine drainage; onsite haul/access roads not constructed of waste rock/overburden/spent ore except if mine drainage is used for dust control; runoff from tailings dams/dikes when not constructed of waste rock/tailings and no process fluids are present; runoff from tailings dams/dikes when constructed of waste rock/tailings if and no process fluids are present if composed entirely of storm water and not combining with mine drainage; concentration building if no contact with material piles; mill site if no contact with material piles; office/administrative building and housing if mixed with storm water from industrial area; chemical storage area; docking facility if no excessive contact with waste product that would otherwise constitute mine drainage; explosive storage; fuel storage; vehicle/equipment maintenance area/building; parking areas (if necessary); power plant; truck wash areas if no excessive contact with waste product that would otherwise constitute mine drainage; unreclaimed, disturbed areas outside of active mining area; reclaimed areas released from reclamation bonds prior to December 17, 1990; and partially/inadequately reclaimed areas or areas not released from reclamation bonds.

6.G.2 Industrial Activities Covered by Sector G

Note: ''metal mining'' will connote any of the separate activities listed in Part 6.G.2. The types of activities that permittees under Sector G are primarily engaged in are:

6.G.2.1 exploring for metallic minerals (ores), developing mines and the mining of ores;

6.G.2.2 ore dressing and beneficiating, whether performed at co-located, dedicated mills or separate (*i.e.,* custom) mills.

6.G.3 Limitations on Coverage

6.G.3.1 *Prohibition of Storm Water Discharges.*

Storm water discharges not authorized by this permit: discharges from active metal mining facilities which are subject to effluent limitation guidelines for the Ore Mining and Dressing Point Source Category (40 CFR Part 440).

Note: discharges that come in contact with overburden/waste rock are subject to 40 CFR Part 440, providing: the discharges drain to a point source (either naturally or as a result of intentional diversion) and they combine with ''mine drainage'' that is otherwise regulated under the Part 440 regulations. Discharges from overburden/waste rock can be covered under this permit if they are composed entirely of storm water, do not combine with sources of mine drainage that are subject to 40 CFR Part 440, and meet other eligibility criteria contained in Part 1.2.2.1.

6.G.3.2 *Prohibition of Non-Storm Water Discharges.*

Not authorized by this permit: adit drainage and contaminated springs or seeps (see also the standard Limitations on Coverage in Part 1.2.3).

6.G.4 Definitions

6.G.4.1 *Mining Operation*—typically consists of three phases, any one of which individually qualifies as a ''mining activity.'' The phases are the exploration and construction phase, the active phase, and the reclamation phase.

6.G.4.2 *Exploration and Construction Phase*—entails exploration and land disturbance activities to determine the financial viability of a site. Construction includes the building of site access roads and removal of overburden and waste rock to expose mineable minerals.

6.G.4.3 *Active Phase*—activities including each step from extraction through production of a salable product.

6.G.4.4 *Reclamation Phase*—activities intended to return the land to its pre-mining use

The following definitions are not intended to supercede the definitions of active and inactive mining facilities established by 40 CFR 122.26(b)(14)(iii).

6.G.4.5 *Active Metal Mining Facility*—a place where work or other activity related to the extraction, removal or recovery of metal ore is being conducted. For surface mines, this definition does not include any land where grading has returned the earth to a desired contour and reclamation has begun.

6.G.4.6 *Inactive Metal Mining Facility*—a site or portion of a site where metal mining and/or milling occurred in the past but is not an active facility as defined above, and where the inactive portion is not covered by an active mining permit issued by the applicable State or Federal government agency.

6.G.4.7 *Temporarily Inactive Metal Mining Facility*—a site or portion of a site where metal mining and/or milling occurred in the past but currently are not being actively undertaken, and the facility is covered by an active mining permit issued by the applicable State or Federal government agency.

6.G.5 Clearing, Grading and Excavation Activities

Clearing, grading and excavation activities being conducted as part of the exploration and construction phase of a mining operation cannot be covered under this permit if these activities will disturb one or more acre of land. Instead, coverage for these activities must be under the latest version of EPA's General Permit for Storm Water Discharges from Construction Activities (the ''Construction General Permit;'' **Federal Register**, Vol. 63, p. 7858 and for Region 6, **Federal Register**, Vol. 63, p. 36490), or an individual construction permit. If the area of disturbance during the initial phase is less than one acre, you must continue to comply with the requirements of the MSGP–2000.

6.G.5.1 *Requirements for Activities Disturbing 5 or More Acres of Earth.* If the one-acre limit as defined in Part 6.G.5 is attained, coverage for these activities must be under the latest version of EPA's Construction General Permit (or individual permit). You must first obtain and comply with the Construction General Permit's requirements before submitting the separate Construction General Permit Notice of Intent (NOI) form (EPA Form 3510–9). The February 17, 1998 version of the permit can be downloaded from the EPA's Web Site at *www.epa.gov/owm/sw/construction/cgp/cgp-nat.pdf* and Region 6's July 6, 1998 version of the permit at *www.epa.gov/owm/sw/construction/cgp/cgp-reg6.pdf* or obtained from the Office of Water Resource Center at (202) 260–7786. The NOI form is also available from the Web Site at *www.epa.gov/owm/sw/construction/connoi.pdf* or from your EPA Regional office at the address listed under Part 8.3. Discharges in compliance with the provisions of the Construction General Permit are also authorized under the MSGP.

6.G.5.2 *Cessation of Earth Disturbing Activities.* If exploration phase clearing, grading and excavation activities are completed and no further mining activities will occur at the site, you must comply with the requirements for terminating the Construction General Permit, *i.e.,* stabilize and revegetate the disturbed land, submit a Notice of Termination, etc. If active mining activities will ensue, you must apply for coverage under the MSGP–2000 for your storm water discharges and be prepared to implement any new requirements prior to beginning the active phase. It is recommended you terminate your coverage under the Construction General Permit, but it is not mandatory that you do so. If you choose not to terminate your construction General Permit, you will be responsible for complying with all permit conditions of the construction permit in addition to those of the MSGP–2000. The Notice of Termination form is Addendum E to this permit and is available at http://www.epa.gov/owm/sw/industry/msgp/notform.pdf.

6.G.6 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.G.6.1 *SWPPP Requirements for Active and Temporarily Inactive Metal Mining Facilities.*

6.G.6.1.1 *Nature of Industrial Activities.* (See also Part 4.2.2.1) Briefly describe the mining and associated activities that can potentially affect the storm water discharges covered by this permit, including: the total acreage within the mine site; the estimated acreage of disturbed land; the estimated acreage of land proposed to be disturbed throughout the life of the mine; and a general description of the location of the site relative to major transportation routes and communities.

6.G.6.1.2 *Site Map.* (See also Part 4.2.2.3) Also identify the locations of the following (as appropriate): mining/milling site boundaries; access and haul roads; outline of the drainage areas of each storm water outfall within the facility and indicate the types of discharges from the drainage areas; equipment storage, fueling and maintenance areas; materials handling areas; outdoor manufacturing, storage or material disposal areas; chemicals and explosives storage areas; overburden, materials, soils or waste storage areas; location of mine drainage (where water leaves mine) or other process water; tailings piles/ponds (including proposed ones); heap leach pads; off-site points of discharge for mine drainage/process water; surface waters; and boundary of tributary areas that are subject to effluent limitations guidelines.

6.G.6.1.3 *Potential Pollutant Sources.* (See also Part 4.2.4) For each area of the mine/mill site where storm water discharges associated with industrial activities occur, identify the types of pollutants (e.g., heavy metals, sediment) likely to be present in significant amounts. Consider these factors: the mineralogy of the ore and waste rock (*e.g.,* acid forming); toxicity and quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; vegetation of site (if any); history of significant leaks/spills of toxic or hazardous pollutants. Also include a summary of any existing ore or waste rock/overburden characterization data and test results for potential generation of acid rock. If any new data is acquired due to changes in ore type being mined, update your SWPPP with this information.

6.G.6.1.4 *Site Inspections.* (See also Part 4.2.7.2.1.5) Inspect active mining sites at least monthly. Inspect temporarily inactive sites at least quarterly unless adverse weather conditions make the site inaccessible.

6.G.6.1.5 *Employee Training.* (See also Part 4.2.7.2.1.6) Conduct employee training at least annually at active mining and temporarily inactive sites.

6.G.6.1.6 *Controls.* (See also Part 4.2.7) Consider each of the following BMPs. The potential pollutants identified in Part 6.G.6.1.3 shall determine the priority and appropriateness of the BMPs selected. If you determine that one or more of these BMPs are not appropriate for your facility, explain why it is not appropriate. If BMPs are implemented or planned but are not listed here (*e.g.,* substituting a less toxic chemical for a more toxic one), include descriptions of them in your SWPPP.

6.G.6.1.6.1 *Storm Water Diversions.* Consider diverting storm water away from potential pollutant sources. BMP options: interceptor/diversion controls (*e.g.,* dikes, swales, curbs or berms); pipe slope drains; subsurface drains; conveyance systems (*e.g.,* channels or gutters, open top box culverts and waterbars; rolling dips and road sloping; roadway surface water deflector, and culverts); or their equivalents.

6.G.6.1.6.2 *Sediment and Erosion Control.* (See also Part 4.2.7.2.2.1) At active and temporarily inactive sites consider a range of erosion controls within the broad categories of: flow diversion (*e.g.,* swales); stabilization (*e.g.,* temporary or permanent seeding); and structural controls (*e.g.,* sediment traps, dikes, silt fences).

6.G.6.1.6.3 *Management of Runoff.* (See also Part 4.2.7.2.2.2) Consider the potential pollutant sources given in Part 6.G.6.1.3 when determining reasonable and appropriate measures for managing runoff.

6.G.6.1.6.4 *Capping.* When capping is necessary to minimize pollutant discharges in storm water, identify the source being capped and the material used to construct the cap.

6.G.6.1.6.5 *Treatment.* If treatment of storm water (*e.g.,* chemical or physical systems, oil/water separators, artificial wetlands, etc.) from active and temporarily inactive sites is necessary to protect water quality, describe the type and location of treatment used.

6.G.6.1.6.6 *Certification of Discharge Testing.* (See also Part 4.4.1) Test or evaluate for the presence of specific mining-related non-storm water discharges such as seeps or adit discharges or discharges subject to effluent limitations guidelines (*e.g.,* 40 CFR Part 440), such as mine drainage or process water. Alternatively (if applicable), you may certify in your SWPPP that a particular discharge comprised of commingled storm water and non-storm water is covered under a separate NPDES permit; and that permit subjects the non-storm water portion to effluent limitations prior to any commingling. This certification shall identify the non-storm water discharges, the applicable NPDES permit(s), the effluent limitations placed on the non-storm water discharge by the permit(s), and the points at which the limitations are applied.

6.G.6.2 *SWPPP Requirements for Inactive Metal Mining Facilities.*

6.G.6.2.1 *Nature of Industrial Activities.* (See also Part 4.2.2.1) Briefly describe the mining and associated activities that took place at the site that can potentially affect the storm water discharges covered by this permit. Include: approximate dates of operation; total acreage within the mine and/or processing site; estimate of acres of disturbed earth; activities currently occurring onsite (*e.g.,* reclamation); a general description of site location with respect to transportation routes and communities.

6.G.6.2.2 *Site Map.* (See also Part 4.2.2.3) See Part 6.G.6.1.2 for requirements.

6.G.6.2.3 *Potential Pollutant Sources.* (See also Part 4.2.4) See Part 6.G.6.1.3 for requirements.

6.G.6.2.4 *Controls.* (See also Part 4.2.7) Consider each of the following BMPs. The potential pollutants identified in Part 6.G.6.2.3 shall determine the priority and appropriateness of the BMPs selected. If you determine that one or more of these BMPs are not appropriate for your facility, explain why it is not appropriate. If BMPs are implemented or planned but are not listed here (*e.g.,* substituting a less toxic chemical for a more toxic one), include descriptions of them in your SWPPP. The non-structural controls in the general requirements at Part 4.2.7.2.1 are not required for inactive facilities.

6.G.6.2.4.1 *Storm Water Diversions.* See Part 6.G.6.1.6.2 for requirements.

6.G.6.2.4.2 *Sediment and Erosion Control.* (See also Part 4.2.7.2.2.1) See Part 6.G.6.1.6 for requirements.

6.G.6.2.4.3 *Management of Runoff.* (See also Part 4.2.7.2.2.2)

Also consider the potential pollutant sources as described in Part 6.G.6.2.3 (Summary of Potential Pollutant Sources) when determining reasonable and appropriate measures for managing runoff.

6.G.6.2.4.4 *Capping.* See Part 6.G.6.1.7 for requirements.

6.G.6.2.4.5 *Treatment.* See Part 6.G.6.1.8 for requirements.

6.G.6.2.5 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9)

Annual site compliance evaluations may be impractical for inactive mining sites due to remote location/inaccessibility of the site; in which case conduct the evaluation at least once every 3 years. Document in the SWPPP why annual compliance evaluations are not possible. If the evaluations will be conducted more often than every 3 years, specify the frequency of evaluations.

6.G.7 Monitoring and Reporting Requirements. (See also Part 5)

6.G.7.1 *Analytic Monitoring for Copper Ore Mining and Dressing Facilities.* Active copper ore mining and dressing facilities must sample and analyze storm water discharges for the pollutants listed in Table G–1.

TABLE G–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING FOR COPPER ORE MINING AND DRESSING FACILITIES

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cut-off concentration [1]	Numeric limitation
Part of Permit Affected/Supplemental Requirements			
Copper Ore Mining and Dressing Facilities ..... (SIC 1021)	Total Suspended Solids (TSS). Nitrate plus Nitrite Nitrogen Chemical Oxygen Demand (COD).	100 mg/L. 0.68 mg/L. 120 mg/L.	

[1] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

6.G.7.2 *Analytic Monitoring Requirements for Discharges From Waste Rock and Overburden Piles at Active Ore Mining and Dressing Facilities.*For discharges from waste rock and overburden piles, perform analytic monitoring at least once within the first year of permit coverage for the parameters listed in Table G–2, and twice annually thereafter for any parameters measured above the benchmark value (based on the initial sampling event) listed in Table G–2. Permittees must also conduct analytic monitoring twice annually for the parameters listed in Table G–3. The twice annual samples must be collected once between January 1 and June 30 and once between July 1 and December 31, with at least 3 months separating the storm events. The director may, however, notify you that you must perform additional monitoring to accurately characterize the quality and quantity of pollutants discharged from your waste rock/overburden piles. Monitoring requirements for discharges from waste rock and overburden piles are not eligible for the waivers in Part 5.3.2.

TABLE G–2.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING FOR DISCHARGES FROM WASTE ROCK AND OVERBURDEN PILES FROM ACTIVE ORE MINING OR DRESSING FACILITIES

Part of permit affected/supplemental requirements—			
Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cutoff concentration [1]	Numeric limitation
Iron Ores; Copper Ores; Lead and Zinc Ores; Gold and Silver Ores; Ferroalloy Ores Except Vanadium; Miscellaneous Metal Ores (SIC Codes 1011, 1021, 1031, 1041, 1044, 1061, 1081, 1094, 1099).	Total Suspended Solids (TSS)	100 mg/L.	
	Turbidity (NTUs)	5 NTUs above background.	
	pH	6.0–9.0 standard units.	
	Hardness (as $CaCO_3$)	no benchmark value.	
See above, as applicable	Antimony, Total	0.636 mg/L.	
	Arsenic, Total	0.16854 mg/L.	
	Beryllium, Total	0.13 mg/L.	
	Cadmium, Total (hardness dependent)	0.0159 mg/L.	
	Copper, Total (hardness dependent)	0.0636 mg/L.	
	Iron, Total	1.0 mg/L.	
	Lead, Total (hardness dependent)	0.0816 mg/L.	
	Manganese, Total	1.0 mg/L.	
	Mercury, Total	0.0024 mg/L.	
	Nickel, Total (hardness dependent)	1.417 mg/L.	
	Selenium, Total	0.2385 mg/L.	
	Silver, Total (hardness dependent)	0.318 mg/L.	
	Zinc, Total (hardness dependent)	0.117 mg/L.	

[1] Monitor at least once during the first year of permit coverage, and twice annually thereafter for any parameter that exceeds the benchmark value. Facilities that monitored for the full list of Table G–2 parameters during the previous permit need not sample the entire list again, however they must continue twice annual monitoring for parameters that exceeded the benchmark values in the initial sampling event.

6.G.7.2.1 Additional Analytic Monitoring Requirements for Discharges From Waste Rock and Overburden Piles.

Table G–3 contains additional monitoring requirements for specific ore mine categories. Perform the monitoring twice annually using the schedule established in Part 6.G.7.2. The initial sampling event for a pollutant parameter required in Table G–2 satisfies the requirement for the first sample of any pollutant measurement in Table G–3.

TABLE G–3.—ADDITIONAL MONOTORING REQUIREMENTS FOR DISCHARGES FROM WASTE ROCK AND OVERBURDEN PILES FROM ACTIVE ORE MINING OR DRESSING FACILITIES

Supplemental requirements—			
Type of Ore mined	Pollutants of concern		
	Total suspended solids (TSS)	pH	Metals, total
Tungsten Ore	X	X	Arsenic, Cadmium (H), Copper (H), Lead (H), Zinc (H).
Nickel Ore	X	X	Arsenic, Cadmium (H), Copper (H), Lead (H), Zinc (H).
Aluminum Ore	X	X	Iron.
Mercury Ore	X	X	Nickel (H).
Iron Ore	X	X	Iron (Dissolved).
Platinum Ore	.....	.....	Cadmium (H), Copper (H), Mercury, Lead (H), Zinc (H).
Titanium Ore	X	X	Iron, Nickel (H), Zinc (H).
Vanadium Ore	X	X	Arsenic, Cadmium (H), Copper (H), Zinc (H).
Copper, Lead, Zinc, Gold, Silver and Molybdenum	X	X	Arsenic, Cadmium (H), Copper (H), Lead, Mercury, Zinc (H).
Uranium, Radium and Vanadium	X	X	Chemical Oxygen Demand, Arsenic, Radium (Dissolved and Total), Uranium, Zinc (H).

Note: (H) indicates that hardness must also be measured when this pollutant is measured.

6.G.7.2.2 *Reporting Requirements Storm Water Discharges From Waste Rock And Overburden Piles From Active Ore Mining or Dressing Facilities.* From active ore mining and dressing facilities, submit monitoring results for each outfall discharging storm water from waste rock and overburden piles, or certifications in accordance with Part 7. Submit monitoring reports on discharge monitoring report (DMR) forms postmarked no later than January 28 of the next year after the samples were collected.

TABLE G–4.—APPLICABILITY OF THE MULTI-SECTOR GENERAL PERMIT TO STORM WATER RUNOFF FROM ACTIVE ORE (METAL) MINING AND DRESSING SITES

Discharge/source of discharge	Note/comment
Piles	
Waste rock/overburden	If composed entirely of storm water and not combining with mine drainage. See Note below.
Topsoil	
Roads constructed of waste rock or spent ore	
Onsite haul roads	If composed entirely of storm water and not combining with mine drainage. See Note below.
Offsite haul/access roads	
Roads not constructed of waste rock or spent ore	
Onsite haul roads	Except if ''mine drainage'' is used for dust control.
Offsite haul/access roads	
Milling/concentrating	
Runoff from tailings dams/dikes when constructed of waste rock/tailings	Except if process fluids are present and only if composed entirely of storm water and not combining with mine drainage. See Note below.
Runoff from tailings dams/dikes when not constructed of waste rock/tailings	Except if process fluids are present.
Concentration building	If storm water only and no contact with piles.
Mill site	If storm water only and no contact with piles.
Ancillary areas	
Office/administrative building and housing	If mixed with storm water from the industrial area.
Chemical storage area	
Docking facility	Except if excessive contact with waste product that would otherwise constitute ''mine drainage''.
Explosive storage	
Fuel storage (oil tanks/coal piles)	
Vehicle/equipment maintenance area/building	
Parking areas	But coverage unnecessary if only employee and visitor-type parking.
Power plant	
Truck wash area	Except when excessive contact with waste product that would otherwise constitute ''mine drainage''.
Reclamation-related areas	
Any disturbed area (unreclaimed)	Only if not in active mining area.
Reclaimed areas released from reclamation bonds prior to Dec. 17 1990.	
Partially/inadequately reclaimed areas or areas not released from reclamation bond.	

Note: Storm water runoff from these sources are subject to the NPDES program for storm water unless mixed with discharges subject to the 40 CFR Part 440 that are not regulated by another permit prior to mixing. Non-storm water discharges from these sources are subject to NPDES permitting and may be subject to the effluent limitation guidelines under 40 CFR Part 440.

Discharges from overburden/waste rock and overburden/waste rock-related areas are not subject to 40 CFR Part 440 unless: (1) it drains naturally (or is intentionally diverted) to a point source; and (2) combines with ''mine drainage'' that is otherwise regulated under the Part 440 regulations. For such sources, coverage under this permit would be available if the discharge composed entirely of storm water does not combine with other sources of mine drainage that are not subject to 40 CFR Part 440, as well as meeting other eligibility criteria contained in Part I.B. of the permit. Permit applicants bear the initial responsibility for determining the applicable technology-based standard for such discharges. EPA recommends that permit applicants contact the relevant NPDES permit issuance authority for assistance to determine the nature and scope of the ''active mining area'' on a mine-by-mine basis, as well as to determine the appropriate permitting mechanism for authorizing such discharges.

6.H Sector H—Coal Mines and Coal Mining Related Facilities

6.H.1 Covered Storm Water Discharges

The requirements in Part 6.H apply to storm water discharges associated with industrial activity from Coal Mines and Coal Mining Related facilities as identified by the SIC Codes specified under Sector H in Table 1–1 of Part 1.2.1.

6.H.2 Industrial Activities Covered by Sector H

Storm water discharges from the following portions of coal mines may be eligible for this permit:

6.H.2.1 Haul roads (nonpublic roads on which coal or coal refuse is conveyed);

6.H.2.2 Access roads (nonpublic roads providing light vehicular traffic within the facility property and to public roadways);

6.H.2.3 Railroad spurs, siding and internal haulage lines (rail lines used for hauling coal within the facility property and to offsite commercial railroad lines or loading areas);

6.H.2.4 Conveyor belts, chutes and aerial tramway haulage areas (areas under and around coal or refuse conveyer areas, including transfer stations); and

6.H.2.5 Equipment storage and maintenance yards, coal handling buildings and structures, and inactive coal mines and related areas (abandoned and other inactive mines, refuse disposal sites and other mining-related areas).

6.H.3 Limitation on Coverage

6.H.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.2.2) Not covered by this permit: discharges from pollutant seeps or underground drainage from inactive coal mines and refuse disposal areas that do not result from precipitation events; and discharges from floor drains in maintenance buildings and other similar drains in mining and preparation plant areas.

6.H.3.2 *Discharges Subject to Storm Water Effluent Guidelines.* (See also Part 1.2.3.4) Not authorized by this permit: storm water discharges subject to an existing effluent limitation guideline at 40 CFR Part 434.

6.H.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4 of the MSGP.

6.H.4.1 *Other Applicable Regulations.* Most active coal mining-related areas (SIC Codes 1221–1241) are subject to sediment and erosion control regulations of the U.S. Office of Surface Mining (OSM) that enforces the Surface Mining Control and Reclamation Act (SMCRA). OSM has granted authority to most coal producing states to implement SMCRA through State SMCRA regulations. All SMCRA requirements regarding control of storm water-related pollutant discharges must be addressed in the SWPPP (directly or by reference).

6.H.4.2 *Drainage Area Site Map.* (See also Part 4.2.2.3) Also identify where any of the following may be exposed to precipitation/surface runoff: all applicable mining related areas described in Part 6.H.2; acidic spoil, refuse or unreclaimed disturbed areas, and liquid storage tanks containing pollutants such as caustics, hydraulic fluids and lubricants.

6.H.4.3 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following sources and activities that have potential pollutants associated with them: truck traffic on haul roads and resulting generation of sediment subject to runoff and dust generation; fuel or other liquid storage; pressure lines containing slurry, hydraulic fluid or other potential harmful liquids; and loading or temporary storage of acidic refuse/spoil.

6.H.4.4 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1) As part of your good housekeeping program, consider: using sweepers; covered storage; watering haul roads to minimize dust generation; and conserving vegetation (where possible) to minimize erosion.

6.H.4.5 *Preventive Maintenance.* (See also Part 4.2.7.2.1.3) Also perform inspections of storage tanks and pressure lines of fuels, lubricants, hydraulic fluid or slurry to prevent leaks due to deterioration or faulty connections; or other equivalent measures.

6.H.4.6 *Inspections of Active Mining-Related Areas and Inactive Areas Under SMCRA Bond Authority.* (See also Part 4.2.7.2.1.5) Perform quarterly inspections of areas covered by this permit, corresponding with the inspections, as performed by SMCRA inspectors, of all mining-related areas required by SMCRA. Also maintain the records of the SMCRA authority representative.

6.H.4.7 *Sediment and Erosion Control.* (See also Part 4.2.7.2.2.1) As indicated in Part 6.H.4.1 above, SMCRA requirements regarding sediment and erosion control measures are primary requirements of the SWPPP for mining-related areas subject to SMCRA authority.

6.H.4.8 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9.2) Include in your evaluation program, inspections for pollutants entering the drainage system from activities located on or near coal mining-related areas. Among the areas to be inspected: haul and access roads; railroad spurs, sliding and internal hauling lines; conveyor belts, chutes and aerial tramways; equipment storage and maintenance yards; coal handling buildings/structures; and inactive mines and related areas.

6.H.6 Monitoring and Reporting Requirements. (See also Part 5)

TABLE H–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cutoff concentration [1]	Numeric limitation
Part of Permit Affected/Supplemental Requirements			
Coal Mines and Related Areas (SIC 1221–1241)	Total Recoverable Aluminum Total Recoverable Iron Total Suspended Solids	0.75 mg/L. 1.0 mg/L. 100 mg/L..	

[1] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

6.I Sector I—Oil and Gas Extraction and Refining

6.I.1 Covered Storm Water Discharges

The requirements in Part 6.I apply to storm water discharges associated with industrial activity from Oil and Gas Extraction and Refining facilities as identified by the SIC Codes specified under Sector I in Table 1–1 of Part 1.2.1.

6.I.2 Industrial Activities Covered By Sector I

The types of activities that permittees under Sector I are primarily engaged in are:

6.I.2.1 Oil and gas exploration, production, processing or treatment operations, or transmission facilities;

6.I.2.2 Extraction and production of crude oil, natural gas, oil sands and shale; the production of hydrocarbon liquids and natural gas from coal; and associated oil field service, supply and repair industries.

6.I.3 Limitations On Coverage

6.I.3.1 *Prohibition of Storm Water Discharges.* This permit does not authorize contaminated storm water discharges from petroleum refining or drilling operations that are subject to nationally established BAT or BPT guidelines found at 40 CFR Parts 419 and 435, respectively. Note: most contaminated discharges at petroleum refining and drilling facilities are subject to these effluent guidelines and are not eligible for coverage by this permit.

6.I.3.2 *Prohibition of Non-Storm Water Discharges.* Not authorized by this permit: discharges of vehicle and equipment washwater, including tank cleaning operations.

Alternatively, washwater discharges must be authorized under a separate NPDES permit, or be discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements.

6.I.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.I.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: Reportable Quantity (RQ) releases; locations used for the treatment, storage or disposal of wastes; processing areas and storage areas; chemical mixing areas; construction and drilling areas; all areas subject to the effluent guidelines requirements for ''No Discharge'' in accordance with 40 CFR 435.32; and the structural controls to achieve compliance with the ''No Discharge'' requirements.

6.I.4.2 *Potential Pollutant Sources.* (See also Part 4.2.4)

Also describe the following sources and activities that have potential pollutants associated with them: chemical, cement, mud or gel mixing activities; drilling or mining activities; and equipment cleaning and rehabilitation activities. In addition, include information about the RQ release that triggered the permit application requirements; the nature of release (*e.g.,* spill of oil from a drum storage area); the amount of oil or hazardous substance released; amount of substance recovered; date of the release; cause of the release (*e.g.,* poor handling techniques and lack of containment in the area); areas affected by the release (i.e., land and water); procedure to clean up release; actions or procedures implemented to prevent or improve response to a release; and remaining potential contamination of storm water from release (taking into account human health risks, the control of drinking water intakes and the designated uses of the receiving water).

6.I.4.3 *Inspections.* (See also Part 4.2.7.2.1.5)

6.I.4.3.1 *Inspection Frequency.* Inspect all equipment and areas addressed in the SWPPP at a minimum of 6-month intervals. Routinely (but not less than quarterly) inspect equipment and vehicles which store, mix (including all on and offsite mixing tanks) or transport chemicals/hazardous materials (including those transporting supplies to oil field activities).

6.I.4.3.2 *Temporarily or Permanently Inactive Oil and Gas Extraction Facilities.* For these facilities that are remotely located and unstaffed, perform the inspections at least annually.

6.I.4.4 *Sediment and Erosion Control.* (See also Part 4.2.7.2.2.1) Unless covered by the General Permit for Construction Activity, the additional sediment and erosion control requirements for well drillings, and sand/shale mining areas include the following:

6.I.4.4.1 *Site Description:* Also include: a description of the nature of the exploration activity; estimates of the total area of site and area disturbed due to exploration activity; an estimate of runoff coefficient of the site; site drainage map, including approximate slopes; and the name of all receiving waters. All sediment and erosion control measures must be inspected once every seven days.

6.I.4.4.2 *Vegetative Controls:* Describe and implement vegetative practices designed to preserve existing vegetation where attainable and re-vegetate open areas as soon as practicable after grade drilling. Consider the following (or equivalent measures): temporary or permanent seeding, mulching, sod stabilization, vegetative buffer strips, tree protection practices. Begin implementing appropriate vegetative practices on all disturbed areas within 14 days following the last activity in that area.

6.I.4.5 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.I.4.5.1 *Vehicle and Equipment Storage Areas.* Confine vehicles/equipment awaiting or having undergone maintenance to designated areas (as marked on site map). Describe and implement measures to minimize contaminants from these areas (*e.g.,* drip pans under equipment, indoor storage, use of berms or dikes, or other equivalent measures).

6.I.4.5.2 *Material and Chemical Storage Areas.* Maintain these areas in good conditions to prevent contamination of storm water. Plainly label all hazardous materials.

6.I.4.5.3 *Chemical Mixing Areas.* (See also Part 4.4)

Describe and implement measures that prevent or minimize contamination of storm water runoff from chemical mixing areas.

6.J Sector J—Mineral Mining and Dressing

6.J.1 Covered Storm Water Discharges

The requirements in Part 6.J apply to storm water discharges associated with industrial activity from active and inactive mineral mining and dressing facilities as identified by the SIC Codes specified under Sector J in Table 1–1 of Part 1.2.1.

6.J.2 Industrial Activities Covered by Sector J

The types of activities that permittees under Sector J are primarily engaged in are:

6.J.2.1 exploring for minerals (*e.g.,* stone, sand, clay, chemical and fertilizer minerals, non-metallic minerals, etc.), developing mines and the mining of minerals; and

6.J.2.2 mineral dressing, and non-metallic mineral services.

6.J.3 Limitations on Coverage

Not authorized by this permit: most storm water discharges subject to an existing effluent limitation guideline at 40 CFR part 436. The exceptions to this limitation and which are therefore covered by the MSGP–2000 are mine

dewatering discharges composed entirely of storm water or ground water seepage from: construction sand and gravel, industrial sand, and crushed stone mining facilities in Regions 1, 2, 3, 6, 8, 9, and 10.

6.J.4 Definitions

6.J.4.1 *Mining Operation*—typically consists of three-phases, any one of which individually qualifies as a ''mining activity.'' The phases are the exploration and construction phase, the active phase and the reclamation phase.

6.J.4.2 *Exploration and Construction Phase*—entails exploration and land disturbance activities to determine the financial viability of a site. Construction includes the building of site access roads and removal of overburden and waste rock to expose mineable minerals.

6.J.4.3 *Active Phase*—activities including each step from extraction through production of a salable product.

6.J.4.4 *Reclamation phase*—activities intended to return the land to its pre-mining state.

Note: The following definitions are not intended to supercede the definitions of active and inactive mining facilities established by 40 CFR 122.26(b)(14)(iii).

6.J.4.5 *Active Mineral Mining Facility*—a place where work or other activity related to the extraction, removal or recovery of minerals is being conducted. This definition does not include any land where grading has returned the earth to a desired contour and reclamation has begun.

6.J.4.6 *Inactive Mineral Mining Facility*—a site or portion of a site where mineral mining and/or dressing occurred in the past but is not an active facility as defined above, and where the inactive portion is not covered by an active permit issued by the applicable State or Federal government agency.

6.J.4.7 *Temporarily Inactive Mineral Mining Facility*—a site or portion of a site where mineral mining and/or dressing occurred in the past but currently are not being actively undertaken, and the facility is covered by an active mining permit issued by the applicable State or Federal government agency.

6.J.5 Clearing, Grading and Excavation Activities

Clearing, grading and excavation activities being conducted as part of the exploration and construction phase of a mineral mining operation cannot be covered under this permit if these activities will disturb one or more acre of land. Instead, coverage for these activities must be under the latest version of EPA's General Permit for Storm Water Discharges from Construction Activities (the ''Construction General Permit;'' **Federal Register**, Vol. 63, p. 7858) and, for Region 6, **Federal Register**, Vol. 63, p. 36490), or an individual construction permit. If the area of disturbance during the initial phase is less than one acre, you must continue to comply with the requirements of the MSGP–2000.

6.J.5.1 *Obtaining Coverage Under the Construction General Permit.* If the one-acre limit as described in Part 6.J.5 is attained, coverage for these activities must be under the latest version of EPA's Construction General Permit (or individual permit). You must first obtain and comply with the Construction General Permit's requirements before submitting the separate Construction General Permit Notice of Intent (NOI) form (EPA Form 3510–9). The February 17, 1998 version of the permit can be downloaded from the EPA's Web Site at *http://www.epa.gov/owm/sw/construction/cgp/cgp-nat.pdf* or obtained from the Office of Water Resource Center at (202) 260–7786. The NOI form is also available from the Web Site at *http://www.epa.gov/owm/sw/construction/connoi.pdf* or from your EPA Regional office at the address listed under Part 8.3. Discharges in compliance with the provisions of the Construction General Permit are also authorized under the MSGP.

6.J.5.2 *Cessation of Exploration and Construction Activities.* If exploration phase clearing, grading and excavation activities are completed and no further mining activities will occur at the site, you must comply with the requirements for terminating the Construction General Permit, *i.e.,* stabilize and revegetate the disturbed land, submit a Notice of Termination, etc. If active mining operations will ensue, you must apply for coverage under the MSGP–2000 for your storm water discharges and be prepared to implement any new requirements prior to beginning the active phase. It is recommended you terminate your coverage under the construction general permit, but you are not required to do so. If you choose to not terminate, you will be responsible for complying with all permit conditions of the construction permit in addition to those of the MSGP–2000. The Notice of Termination form is available in Addendum F to this permit and at *http://www.epa.gov/owm/sw/industry/msgp/notform.pdf.*

6.J.6 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4 of the MSGP.

6.J.6.1 *Inspections.* (See also Part 4.2.7.2.1.5) Conduct quarterly visual inspections of all BMPs at active mining facilities. At temporarily or permanently inactive facilities, perform annual inspections. Include in your inspection program: assessment of the integrity of storm water discharge diversions, conveyance systems, sediment control and collection systems and containment structures; inspections to determine if soil erosion has occurred at, or as a result of vegetative BMPs, serrated slopes and benched slopes; inspections of material handling and storage areas and other potential sources of pollution for evidence of actual or potential discharges of contaminated storm water.

6.J.7 Monitoring and Reporting Requirements. (See also Part 5)

TABLE J–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cut-off concentration [1]	Numeric limitation [2]
Part of Permit Affected/Supplemental Requirements			
Mine Dewatering Activities at Construction Sand and Gravel; Industrial Sand; and Crushed Stone Mining Facilities (SIC 1422–1429, 1442, 1446).	Total Suspended Solids	.....	25 mg/L, monthly avg. 45 mg/L, daily max
	pH		6.0–9.0
Sand and Gravel Mining (SIC 1442, 1446)	Nitrate plus Nitrogen	0.68 mg/L.	
	Total Suspended Solids	100 mg/L.	

TABLE J–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING—Continued

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cut-off concentration [1]	Numeric limitation [2]
Dimension and Crushed Stone and Nonmetallic Minerals (except fuels) (SIC 1411, 1422–1429, 1481, 1499).	Total Suspended Solids	100 mg/L.	

[1] Monitor once/quarter for the year 2 and year 4 Monitoring Years.
[2] Monitor once/year for Each Monitoring Year.

6.K Sector K—Hazardous Waste Treatment, Storage or Disposal Facilities

6.K.1 Covered Storm Water Discharges

The requirements in Part 6.K apply to storm water discharges associated with industrial activity from Hazardous Waste Treatment, Storage or Disposal facilities as identified by the Activity Code specified under Sector K in Table 1–1 of Part 1.2.1.

6.K.2 Industrial Activities Covered by Sector K

This permit authorizes storm water discharges associated with industrial activity from facilities that treat, store or dispose of hazardous wastes, including those that are operating under interim status or a permit under subtitle C of RCRA.

6.K.3 Limitations on Coverage

For facilities located in Region 6, coverage is limited to Hazardous Waste Treatment Storage or Disposal Facilities (TSDF's) that are self-generating or handle residential wastes only and to those facilities that only store hazardous wastes and do not treat or dispose. Those permits are issued by EPA Region 6 for Louisiana (LAR05*###), New Mexico (NMR05*###), Oklahoma (OKR05*###), and Federal Indian Reservations in these States (LAR05*##F, NMR05*##F, OKR05*##F, or TXR05*##F). Coverage under this permit is not available to commercial hazardous waste disposal/treatment facilities located in Region 6 that dispose and treat on a commercial basis any produced hazardous wastes (not their own) as a service to generators.

6.K.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.1) Not authorized by this permit: leachate, gas collection condensate, drained free liquids, contaminated ground water, laboratory-derived wastewater and contact washwater from washing truck and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.

6.K.4 Definitions

6.K.4.1 *Contaminated storm water*—storm water which comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater as defined in Part 6.K.4.5. Some specific areas of a landfill that may produce contaminated storm water include (but are not limited to): the open face of an active landfill with exposed waste (no cover added); the areas around wastewater treatment operations; trucks, equipment or machinery that has been in direct contact with the waste; and waste dumping areas.

6.K.4.2 *Drained free liquids*—aqueous wastes drained from waste containers (*e.g.,* drums, etc.) prior to landfilling.

6.K.4.3 *Land treatment facility*—a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

6.K.4.4 *Landfill*—an area of land or an excavation in which wastes are placed for permanent disposal, that is not a land application or land treatment unit, surface impoundment, underground injection well, waste pile, salt dome formation, a salt bed formation, an underground mine or a cave as these terms are defined in 40 CFR 257.2, 258.2 and 260.10.

6.K.4.5 *Landfill wastewater*—as defined in 40 CFR Part 445 (Landfills Point Source Category) all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, non-contaminated storm water, contaminated groundwater, and wastewater from recovery pumping wells. Landfill wastewater includes, but is not limited to, leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated storm water and contact washwater from washing truck, equipment, and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.

6.K.4.6 *Leachate*—liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste.

6.K.4.7 *Non-contaminated storm water*—storm water which does not come into direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater as defined in Part 6.K.4.5. Non-contaminated storm water includes storm water which flows off the cap, cover, intermediate cover, daily cover, and/or final cover of the landfill.

6.K.4.8 *Pile*—any non-containerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage and that is not a containment building.

6.K.4.9 *Surface impoundment*—a facility or part of a facility which is a natural topographic depression, man-made excavation or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds and lagoons.

6.K.5 Numeric Limitations, Monitoring and Reporting Requirements. (See also Part 5)

TABLE K–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK AND COMPLIANCE MONITORING

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cut-off concentration [1]	Numeric limitation [2]
Part of Permit Affected/Supplemental Requirements			
ALL—Industrial Activity Code	Ammonia	19.0 mg/L	
"HZ" (Note: permit coverage limited in some States)	Total Recoverable Magnesium.	0.0636 mg/L	
	Chemical Oxygen Demand (COD).	120.0 mg/L	
	Total Recoverable Arsenic	0.16854 mg/L	
	Total Recoverable Cadmium.	0.0159 mg/L	
	Total Cyanide	0.0636 mg/L	
	Total Recoverable Lead	0.0816 mg/L	
	Total Recoverable Mercury	0.0024 mg/L	
	Total Recoverable Selenium.	0.2385 mg/L	
	Total Recoverable Silver ...	0.0318 mg/L	
ALL—Industrial Activity Code	BOD5	.....	220 mg/l, daily max.
"HZ" Subject to the Provisions of 40 CFR Part 445 Subpart A.			56 mg/l, monthly avg. maximum.
	TSS	.....	88 mg/l, daily max.
			27 mg/l, monthly avg. maximum.
	Ammonia	.....	10 mg/l, daily maximum.
			4.9 mg/l, monthly avg. maximum.
	Alpha Terpineol	.....	0.042 mg/l, daily max.
			0.019 mg/l, monthly avg. maximum.
	Aniline	.....	0.024 mg/l, daily max.
			0.015 mg/l, monthly avg. maximum.
	Benzoic Acid	.....	0.119 mg/l, daily max.
			0.073 mg/l, monthly avg. maximum.
	Naphthalene	.....	0.059 mg/l, daily max.
			0.022 mg/l, monthly avg. maximum.
	p-Cresol	.....	0.024 mg/l, daily max.
			0.015 mg/l, monthly avg. maximum.
	Phenol	.....	0.048 mg/l, daily max.
			0.029 mg/l, monthly avg. maximum.
	Pyridine	.....	0.072 mg/l, daily max.
			0.025 mg/l, monthly avg. maximum.
	Arsenic (Total)	.....	1.1 mg/l, daily maximum.
			0.54 mg/l, monthly avg. maximum.
	Chromium (Total)	.....	1.1 mg/l, daily maximum.
			0.46 mg/l, monthly avg. maximum.
	Zinc (Total)	.....	0.535 mg/l, daily max.
			0.296 mg/l, monthly avg. maximum.
	pH	.....	Within the range of 6–9 pH units.

[1] These benchmark monitoring cutoff concentrations apply to storm water discharges associated with industrial activity other than contaminated storm water discharges from landfills subject to the numeric effluent limitations set forth in Table K–1. Monitor once/quarter for the year 2 and year 4 monitoring years.

[2] As set forth at 40 CFR Part 445 Subpart A, these numeric limitations apply to contaminated storm water discharges from hazardous waste landfills subject to the provisions of RCRA Subtitle C at 40 CFR Parts 264 (Subpart N) and 265 (Subpart N) except for any of the facilities described below:

(a) Landfills operated in conjunction with other industrial or commercial operations when the landfill only receives wastes generated by the industrial or commercial operation directly associated with the landfill;

(b) Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes generated by the industrial or commercial operation directly associated with the landfill and also receives other wastes provided the other wastes received for disposal are generated by a facility that is subject to the same provisions in 40 CFR Subchapter N as the industrial or commercial operation or the other wastes received are of similar nature to the wastes generated by the industrial or commercial operation;

(c) Landfills operated in conjunction with Centralized Waste Treatment (CWT) facilities subject to 40 CFR Part 437 so long as the CWT facility commingles the landfill wastewater with other non-landfill wastewater for discharge. A landfill directly associated with a CWT facility is subject to this part if the CWT facility discharges landfill wastewater separately from other CWT wastewater or commingles the wastewater from its landfill only with wastewater from other landfills; or

(d) Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes from public service activities so long as the company owning the landfill does not receive a fee or other remuneration for the disposal service.

For the discharges subject to the numeric effluent limitations, monitoring for the specified parameters is required once/year during each year of the term of the permit.

6.L Sector L—Landfills, Land Application Sites and Open Dumps

6.L.1 Covered Storm Water Discharges

The requirements in Part 6.L apply to storm water discharges associated with industrial activity from Landfills and Land Application Sites and Open Dumps as identified by the Activity Codes specified under Sector L in Table 1–1 of Part 1.2.1.

6.L.2 Industrial Activities Covered by Sector L

This permit may authorize storm water discharges for Sector L facilities associated with waste disposal at landfills, land application sites and open dumps that receive or have received industrial waste, including sites subject to regulation under Subtitle D of RCRA.

6.L.3 Limitations on Coverage

6.L.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.1)

Not authorized by this permit: leachate, gas collection condensate, drained free liquids, contaminated ground water, laboratory wastewater, and contact washwater from washing truck and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.

6.L.4 Definitions

6.L.4.1 *Contaminated storm water*—storm water which comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater. Some specific areas of a landfill that may produce contaminated storm water include (but are not limited to): the open face of an active landfill with exposed waste (no cover added); the areas around wastewater treatment operations; trucks, equipment or machinery that has been in direct contact with the waste; and waste dumping areas.

6.L.4.2 *Drained free liquids*—aqueous wastes drained from waste containers (*e.g.,* drums, etc.) prior to landfilling.

6.L.4.3 *Landfill wastewater*—as defined in 40 CFR Part 445 (Landfills Point Source Category) all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, non-contaminated storm water, contaminated groundwater, and wastewater from recovery pumping wells. Landfill process wastewater includes, but is not limited to, leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated storm water and contact washwater from washing truck, equipment and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.

6.L.4.4 *Leachate*—liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials removed from such waste.

6.L.4.5 *Non-contaminated storm water*—storm water which does not come in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater. Non-contaminated storm water includes storm water which flows off the cap, cover, intermediate cover, daily cover, and/or final cover of the landfill.

6.L.5 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.L.5.1 *Drainage Area Site Map.* (See also Part 4.2.2.3)

Identify where any of the following may be exposed to precipitation/surface runoff: Active and closed landfill cells or trenches, active and closed land application areas, locations where open dumping is occurring or has occurred, locations of any known leachate springs or other areas where uncontrolled leachate may commingle with runoff, leachate collection and handling systems.

6.L.5.2 *Summary of Potential Pollutant Sources.* (See also Part 4.2.4)

Describe the following sources and activities that have potential pollutants associated with them: fertilizer, herbicide and pesticide application; earth/soil moving; waste hauling and loading/unloading; outdoor storage of significant materials including daily, interim and final cover material stockpiles as well as temporary waste storage areas; exposure of active and inactive landfill and land application areas; uncontrolled leachate flows; failure or leaks from leachate collection and treatment systems.

6.L.5.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

As part of your good housekeeping program, consider providing protected storage areas for pesticides, herbicides, fertilizer and other significant materials.

6.L.5.4 *Preventative Maintenance Program.* (See also Part 4.2.7.1)

As part of your preventive maintenance program, maintain: all containers used for outdoor chemical/significant materials storage to prevent leaking; all elements of leachate collection and treatment systems to prevent commingling of leachate with storm water; the integrity and effectiveness of any intermediate or final cover (including repairing the cover as necessary to minimize the effects of settlement, sinking and erosion).

6.L.5.5 *Inspections.*

6.L.5.5.1 *Inspections of Active Sites.* (See also Part 4.2.7.2.1.5) Inspect operating landfills, open dumps and land application sites at least once every 7 days. Focus on areas of landfills that have not yet been finally stabilized, active land application areas, areas used for storage of material/wastes that are exposed to precipitation, stabilization and structural control measures, leachate collection and treatment systems, and locations where equipment and waste trucks enter/exit the site. Ensure that sediment and erosion control measures are operating properly. For stabilized sites and areas where land application has been completed, or where the climate is seasonally arid (annual rainfall averages from 0 to 10 inches) or semi-arid (annual rainfall averages from 10 to 20 inches), conduct inspections at least once every month.

6.L.5.5.2 *Inspections of Inactive Sites.* (See also Part 4.2.7.2.1.5) Inspect inactive landfills, open dumps and land application sites at least quarterly. Qualified personnel must inspect landfill (or open dump) stabilization and structural erosion control measures and leachate collection and treatment systems, and all closed land application areas.

6.L.5.6 *Recordkeeping and Internal Reporting.* Implement a tracking system for the types of wastes disposed of in each cell or trench of a landfill or open dump. For land application sites, track

the types and quantities of wastes applied in specific areas.

6.L.5.7 *Non-Storm Water Discharge Test Certification.* (See also Part 4.) The discharge test and certification must also be conducted for the presence of leachate and vehicle washwater.

6.L.5.8 *Sediment and Erosion Control Plan.* (See also Part 4.2.7.2.2.1) Provide temporary stabilization (e.g., consider temporary seeding, mulching and placing geotextiles on the inactive portions of stockpiles): for materials stockpiled for daily, intermediate and final cover; for inactive areas of the landfill or open dump; for any landfill or open dump area that have gotten final covers but where vegetation has yet to established itself; and where waste application has been completed at land application sites but final vegetation has not yet been established.

6.L.5.9 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9.2) Evaluate areas contributing to a storm water discharge associated with industrial activities at landfills, open dumps and land application sites for evidence of, or the potential for, pollutants entering the drainage system.

6.L.6 Numeric Limitations, Monitoring and Reporting Requirements. (See also Part 5)

TABLE L–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK AND COMPLIANCE MONITORING

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cut-off concentration [1]	Numeric limitation [2]
Section of Permit Affected/Supplemental Requirements			
All Landfill, Land Application Sites and Open Dumps (Industrial Activity Code ''LF'').	Total Suspended Solids (TSS).	100 mg/L.	
All Landfill, Land Application Sites and Open Dumps, Except Municipal Solid Waste Landfill (MSWLF) Areas Closed in Accordance with 40 CFR 258.60 (Industrial Activity Code ''LF'').	Total Recoverable Iron	1.0mg/L.	
All Landfills Which are Subject to the Requirements of 40 CFR Part 445 Subpart B (Industrial Activity Code ''LF'').	BOD5	.....	140 mg/1, daily max. 37 mg/1, monthly ave maximum
	TSS	.....	88 mg/l, daily max. 27 mg/1, monthly ave maximum.
	Ammonia	.....	10 mg/1, daily max. 4.9 mg/1, monthly ave maximum.
	Alpha Terpineol	.....	0.033 mg/1, daily max. 0.016 mg/1, monthly ave maximum.
	Benzoic Acid	.....	0.12 mg/1, daily max. 0.071 mg/1, monthly ave maximum.
	p-Cresol	.....	0.025 mg/1, daily max. 0.014 mg/1, monthly ave maximum.
	Phenol	.....	0.026 mg/1, daily max. 0.015 mg/1, monthly ave maximum.
	Zinc (Total)	.....	0.20 mg/1, daily max. 0.11 mg/1, monthly ave maximum.
	pH	.....	Within the range of 6–9 pH units.

[1] These benchmark monitoring cutoff concentrations apply to storm water discharges associated with industrial activity other than contaminated storm water discharges from landfills subject to the numeric effluent limitations set forth in Table L–1. Monitor once/quarter for the year 2 and year 4 monitoring years.

[2] As set forth at 40 CFR Part 445 Subpart B, these numeric limitations apply to contaminated storm water discharges from MSWLFs which have not been closed in accordance with 40 CFR 258.60, and contaminated storm water discharges from those landfills which are subject to the provisions of 40 CFR Part 257 except for discharges from any of facilities described in (a) through (d) below:

(a) landfills operated in conjunction with other industrial or commercial operations when the landfill only receives wastes generated by the industrial or commercial operation directly associated with the landfill;

(b) landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes generated by the industrial or commercial operation directly associated with the landfill and also receives other wastes provided the other wastes received for disposal are generated by a facility that is subject to the same provisions in 40 CFR Subchapter N as the industrial or commercial operation or the other wastes received are of similar nature to the wastes generated by the industrial or commercial operation;

(c) landfills operated in conjunction with Centralized Waste Treatment (CWT) facilities subject to 40 CFR Part 437 so long as the CWT facility commingles the landfill wastewater with other non-landfill wastewater for discharge. A landfill directly associated with a CWT facility is subject to this part if the CWT facility discharges landfill wastewater separately from other CWT wastewater or commingles the wastewater from its landfill only with wastewater from other landfills; or

(d) landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes from public service activities so long as the company owning the landfill does not receive a fee or other remuneration for the disposal service.

For the discharges subject to the numeric effluent limitations, monitoring for the specified parameters is required once/year during each year of the term of the permit.

6.M Sector M—Automobile Salvage Yards

6.M.1 Covered Storm Water Discharges

The requirements in Part 6.M apply to storm water discharges associated with industrial activity from Automobile Salvage Yards as identified by the Activity Code specified under Sector M in Table 1–1 of Part 1.2.1.

6.M.2 Industrial Activities Covered by Sector M

The types of activities that permittees under Sector M are primarily engaged in are dismantling or wrecking used motor vehicles for parts recycling/resale and for scrap.

6.M.3 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.M.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Indicate the location of each monitoring point, and estimate the total acreage used for industrial activity including, but not limited to, dismantling, storage and maintenance of used motor vehicle parts. Also identify where any of the following may be exposed to precipitation/surface runoff: Dismantling areas; parts (*e.g.*, engine blocks, tires, hub caps, batteries, hoods, mufflers) storage areas; liquid storage tanks and drums for fuel and other fluids.

6.M.3.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Assess the potential for the following to contribute pollutants to storm water discharges: Vehicle storage areas; dismantling areas; parts storage area (*e.g.*, engine blocks, tires, hub caps, batteries, hoods, mufflers); fueling stations.

6.M.3.3 *Spill and Leak Prevention Procedures.* (See also Part 4.2.7.2.1.4) Drain vehicles intended to be dismantled of all fluids upon arrival at the site (or as soon thereafter as feasible); or employ some other equivalent means to prevent spills/leaks.

6.M.3.4 *Inspections.* (See also Part 4.2.7.2.1.5) Immediately (or as soon thereafter as feasible) inspect vehicles arriving at the site for leaks. Inspect quarterly for signs of leakage, all equipment containing oily parts, hydraulic fluids or any other types of fluids. Also inspect quarterly for signs of leakage, all vessels and areas where fluids are stored, including, but not limited to, brake fluid, transmission fluid, radiator water and antifreeze.

6.M.3.5 *Employee Training.* (See also Part 4.2.7.2.1.6) If applicable to your facility, address the following areas (at a minimum) in your employee training program: Proper handling (collection, storage, and disposal) of oil, used mineral spirits, anti-freeze and solvents.

6.M.3.6 *Management of Runoff.* (See also Part 4.2.7.2.2.2) Consider the following management practices: Berms or drainage ditches on the property line (to help prevent run-on from neighboring properties); berms for uncovered outdoor storage of oily parts, engine blocks and above-ground liquid storage; installation of detention ponds; and the installation of filtering devices and oil/water separators.

6.M.4 Monitoring and Reporting Requirements. (See also Part 5)

TABLE M–1.—SECTOR-SPECIFIC NUMERIC LIMITATIONS AND BENCHMARK MONITORING

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cut-off concentration [1]	Numeric limitation
Sector of Permit Affected/Supplemental Requirements			
Automobile Salvage Yards (SIC 5015)	Total Suspended Solids (TSS). Total Recoverable Aluminum. Total Recoverable Iron ..... Total Recoverable Lead	100.0 mg/L. 0.75 mg/L. 1.0 mg/L. 0.0816 mg/L.	

[1] Monitor once/quarter for the year 2 and year 4 monitoring years.

6.N Sector N—Scrap Recycling and Waste Recycling Facilities

6.N.1 Covered Storm Water Discharges

The requirements in Part N apply to storm water discharges associated with industrial activity from Scrap Recycling and Waste Recycling facilities as identified by the SIC Codes specified under Sector N in Table 1–1 of Part 1.2.1.

6.N.2 Industrial Activities Covered by Sector N

The types of activities that permittees under Sector N are primarily engaged in are:

6.N.2.1 processing, reclaiming and wholesale distribution of scrap and waste materials such as ferrous and nonferrous metals, paper, plastic, cardboard, glass, animal hides;

6.N.2.2 reclaiming and recycling liquid wastes such as used oil, antifreeze, mineral spirits and industrial solvents.

6.N.3 Coverage Under This Permit

Separate permit requirements have been established for recycling facilities that only receive source-separated recyclable materials primarily from non-industrial and residential sources (*i.e.*, common consumer products including paper, newspaper, glass, cardboard, plastic containers, aluminum and tin cans). This includes recycling facilities commonly referred to as material recovery facilities (MRF).

6.N.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.2.2) Not covered by this permit: non-storm water discharges from turnings containment areas (see also Part 6.N.5.1.3). Discharges from containment areas in the absence of a storm event are prohibited unless covered by a separate NPDES permit.

6.N.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4 of the MSGP. Part 6.N.4.1 contains a requirement that applies to all recycling facilities and is followed by Parts 6.N.4.2 to 6.N.4.4.4, which have requirements for specific types of

recycling facilities. Implement and describe in your SWPPP a program to address those items that apply. Included are lists of BMP options which, along with any functional equivalents, should be considered for implementation. Selection or deselection of a particular BMP or approach is up to the best professional judgement of the operator, as long as the objective of the requirement is met.

6.N.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3)

Identify the locations of any of the following activities or sources which may be exposed to precipitation/surface runoff: scrap and waste material storage, outdoor scrap and waste processing equipment, and containment areas for turnings exposed to cutting fluids.

6.N.4.2 *Scrap and Waste Recycling Facilities (Non-Source Separated, Non-Liquid Recyclable Materials).* Requirements for facilities that receive, process and do wholesale distribution of non-liquid recyclable wastes (*e.g.*, ferrous and nonferrous metals, plastics, glass, cardboard and paper). These facilities may receive both non recyclable and recyclable materials. This section is not intended for those facilities that only accept recyclables from primarily non-industrial and residential sources.

6.N.4.2.1 *Inbound Recyclable and Waste Material Control Program.* Minimize the chance of accepting materials that could be significant sources of pollutants by conducting inspections of inbound recyclables and waste materials. BMP options: (a) Provide information/education to suppliers of scrap and recyclable waste materials on draining and properly disposing of residual fluids (*e.g.*, from vehicles and equipment engines, radiators and transmissions, oil filled transformers and individual containers or drums), prior to delivery to your facility; (b) procedures to minimize the potential of any residual fluids from coming into contact with precipitation/runoff; (c) procedures for accepting scrap lead-acid batteries (additional requirements for the handling, storage and disposal or recycling of batteries are contained in the scrap lead-acid battery program provisions in N.5.1.6); (d) training targeted for those personnel engaged in the inspection and acceptance of inbound recyclable materials. In addition, (e) liquid wastes, including used oil, must be stored in materially compatible and non-leaking containers and disposed or recycled in accordance with RCRA.

6.N.4.2.2 *Scrap and Waste Material Stockpiles/Storage (Outdoor).* Minimize contact of storm water runoff with stockpiled materials, processed materials and non-recyclable wastes. BMP options: (a) Permanent or semi-permanent covers; (b) to facilitate settling or filtering of pollutants: sediment traps, vegetated swales and strips, catch basin filters and sand filters; (c) divert runoff away from storage areas via dikes, berms, containment trenches, culverts and surface grading; (d) silt fencing; (e) oil/water separators, sumps and dry absorbents for areas where potential sources of residual fluids are stockpiled (*e.g.*, automobile engine storage areas).

6.N.4.2.3 *Stockpiling of Turnings Exposed to Cutting Fluids (Outdoor).* Minimize contact of surface runoff with residual cutting fluids. BMP options (use singularly or in combination): (a) Store all turnings exposed to cutting fluids under some form of permanent or semi-permanent cover. Storm water discharges from these areas are permitted provided the runoff is first treated by an oil/water separator or its equivalent. Identify procedures to collect, handle and dispose/recycle residual fluids which may be present; (b) establish dedicated containment areas for all turnings that have been exposed to cutting fluids. Storm water runoff from these areas can be discharged provided: The containment areas are constructed of either concrete, asphalt or other equivalent types of impermeable material; there is a barrier around the perimeter of the containment areas (*e.g.*, berms, curbing, elevated pads, etc.) to prevent contact with storm water run-on; there is a drainage collection system for runoff generated from containment areas; you have a schedule to maintain the oil/water separator (or its equivalent); and you identify procedures for properly disposing or recycling collected residual fluids.

6.N.4.2.4 *Scrap and Waste Material Stockpiles/Storage (Covered or Indoor Storage).* Minimize contact of residual liquids and particulate matter from materials stored indoors or under cover with surface runoff. BMP options: (a) Good housekeeping measures including the use of dry absorbent or wet vacuuming to contain or dispose/recycle residual liquids originating from recyclable containers; (b) not allowing washwater from tipping floors or other processing areas to discharge to the storm sewer system; (c) disconnect or seal off all floor drains connected to the storm sewer system.

6.N.4.2.5 *Scrap and Recyclable Waste Processing Areas.* Minimize surface runoff from coming in contact with scrap processing equipment. Pay attention to operations that generate visible amounts of particulate residue (*e.g.*, shredding) to minimize the contact of accumulated particulate matter and residual fluids with runoff (*i.e.*, through good housekeeping, preventive maintenance, etc.). BMP options: (a) Regularly inspect equipment for spills/leaks, and malfunctioning/worn/corroded parts or equipment; (b) a preventive maintenance program for processing equipment; (c) use of dry-absorbents or other cleanup practices to collect and dispose/recycle spilled/leaking fluids; (e) on unattended hydraulic reservoirs over 150 gallons in capacity, install such protection devices as low-level alarms or other equivalent devices, or, alternatively, secondary containment that can hold the entire volume of the reservoir; (f) containment or diversion structures such as dikes, berms, culverts, trenches, elevated concrete pads, grading to minimize contact of storm water runoff with outdoor processing equipment or stored materials; (g) oil/water separators or sumps; (h) permanent or semi-permanent covers in processing areas where there are residual fluids and grease; (i) retention/detention ponds or basins; sediment traps, vegetated swales or strips (for pollutant settling/filtration); (j) catch basin filters or sand filters.

6.N.4.2.6 *Scrap Lead-Acid Battery Program.* Properly handle, store and dispose of scrap lead-acid batteries. BMP options: (a) Segregate scrap lead-acid batteries from other scrap materials; (b) proper handling, storage and disposal of cracked or broken batteries; (c) collect and dispose leaking lead-acid battery fluid; (d) minimize/eliminate (if possible) exposure of scrap lead-acid batteries to precipitation or runoff; (e) employee training for the management of scrap batteries.

6.N.4.2.7 *Spill Prevention and Response Procedures.* (See also Part 4.2.7.2.1.4) Minimize storm water contamination at loading/unloading areas, and from equipment or container failures. BMP options: (a) Prevention and response measures for areas that are potential sources of fluid leaks/spills; (b) immediate containment and clean up of spills/leaks. If malfunctioning equipment is responsible for the spill/leak, repairs should also be conducted as soon as possible; (c) cleanup measures including the use of dry absorbents. If this method is employed, there should be an adequate supply of dry absorbent materials kept onsite and used absorbent must be properly disposed of; (d) store drums containing liquids—especially oil and lubricants—either: Indoors, in a bermed area, in overpack containers or spill pallets, or

in other containment devices; (e) install overfill prevention devices on fuel pumps or tanks; (f) place drip pans or equivalent measures under leaking stationary equipment until the leak is repaired. The drip pans should be inspected for leaks and potential overflow and all liquids must be properly disposed of (as per RCRA); (g) install alarms and/or pump shut off systems on outdoor equipment with hydraulic reservoirs exceeding 150 gallons in the event of a line break. Alternatively, a secondary containment system capable of holding the entire contents of the reservoir plus room for precipitation can be used.

6.N.4.2.8 *Quarterly Inspection Program.* (See also Part 4.2.7.2.1.5) Inspect all designated areas of the facility and equipment identified in the plan quarterly.

6.N.4.2.9 *Supplier Notification Program.* As appropriate, notify major suppliers which scrap materials will not be accepted at the facility or are only accepted under certain conditions.

6.N.4.3 *Waste Recycling Facilities (Liquid Recyclable Materials).*

6.N.4.3.1 *Waste Material Storage (Indoor).* Minimize/eliminate contact between residual liquids from waste materials stored indoors and surface runoff. The plan may refer to applicable portions of other existing plans such as SPCC plans required under 40 CFR Part 112. BMP options: (a) procedures for material handling (including labeling and marking); (b) clean up spills/leaks with dry-absorbent materials or a wet vacuum system; (c) appropriate containment structures (trenching, curbing, gutters, etc.); (d) a drainage system, including appurtenances (*e.g.*, pumps or ejectors, manually operated valves), to handle discharges from diked or bermed areas. Drainage should be discharged to an appropriate treatment facility, sanitary sewer system, or otherwise disposed of properly. These discharges may require coverage under a separate NPDES wastewater permit or industrial user permit under the pretreatment program.

6.N.4.3.2 *Waste Material Storage (Outdoor).* Minimize contact between stored residual liquids and precipitation or runoff. The plan may refer to applicable portions of other existing plans such as SPCC plans required under 40 CFR Part 112. Discharges of precipitation from containment areas containing used oil must also be in accordance with applicable sections of 40 CFR Part 112. BMP options: (a) appropriate containment structures (*e.g.*, dikes, berms, curbing, pits) to store the volume of the largest tank with sufficient extra capacity for precipitation; (b) drainage control and other diversionary structures; (c) for storage tanks, provide corrosion protection and/or leak detection systems; (d) use dry-absorbent materials or a wet vacuum system to collect spills.

6.N.4.3.3 *Trucks and Rail Car Waste Transfer Areas.* Minimize pollutants in discharges from truck and rail car loading/unloading areas. Include measures to clean up minor spills/leaks resulting from the transfer of liquid wastes. BMP options: (a) containment and diversionary structures to minimize contact with precipitation or runoff; (b) use dry-clean up methods, wet vacuuming, roof coverings, or runoff controls.

6.N.4.3.4 *Quarterly Inspections.* (See also Part 4.2.7.2.1.5) At a minimum, the inspections must also include all areas where waste is generated, received, stored, treated or disposed and that are exposed to either precipitation or storm water runoff.

6.N.4.4 *Recycling Facilities (Source Separated Materials).* The following identifies considerations for facilities that receive only source-separated recyclables, primarily from non-industrial and residential sources.

6.N.4.4.1 *Inbound Recyclable Material Control.* Minimize the chance of accepting non-recyclables (*e.g.*, hazardous materials) which could be a significant source of pollutants by conducting inspections of inbound materials. BMP options: (a) information/education measures to inform suppliers of recyclables which materials are acceptable and which are not; (b) training drivers responsible for pickup of recycled material; (c) clearly marking public drop-off containers regarding which materials can be accepted; (d) reject non-recyclable wastes or household hazardous wastes at the source; (e) procedures for handling and disposal of non-recyclable material.

6.N.4.4.2 *Outdoor Storage.* Minimize exposure of recyclables to precipitation and runoff. Use good housekeeping measures to prevent accumulation of particulate matter and fluids, particularly in high traffic areas. Other BMP options: (a) provide totally-enclosed drop-off containers for the public; (b) install a sump/pump with each container pit and treat or discharge collected fluids to a sanitary sewer system; (c) provide dikes and curbs for secondary containment (*e.g.*, around bales of recyclable waste paper); (d) divert surface water runoff away from outside material storage areas; (e) provide covers over containment bins, dumpsters, roll-off boxes; (f) store the equivalent one days's volume of recyclable material indoors.

6.N.4.4.3 *Indoor Storage and Material Processing.* Minimize the release of pollutants from indoor storage and processing areas. BMP options: (a) schedule routine good housekeeping measures for all storage and processing areas; (b) prohibit tipping floor washwater from draining to the storm sewer system; (c) provide employee training on pollution prevention practices.

6.N.4.4.4 *Vehicle and Equipment Maintenance.* BMP options for those areas where vehicle and equipment maintenance are occurring outdoors: (a) prohibit vehicle and equipment washwater from discharging to the storm sewer system; (b) minimize or eliminate outdoor maintenance areas whenever possible; (c) establish spill prevention and clean-up procedures in fueling areas; (d) avoid topping off fuel tanks; (e) divert runoff from fueling areas; (f) store lubricants and hydraulic fluids indoors; (g) provide employee training on proper handling, storage of hydraulic fluids and lubricants.

6.N.5 Monitoring and Reporting Requirements. (See also Part 5)

TABLE N–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cut-off concentration[1]	Numeric limitation
Part of Permit Affected/Supplemental Requirements			
Scrap Recycling Facility (SIC 5093)	Chemical Oxygen Demand (COD). Total Suspended Solids (TSS). Total Recoverable Aluminum. Total Recoverable Copper Total Recoverable Iron ..... Total Recoverable Lead .... Total Recoverable Zinc	120 mg/L. 100 mg/L. 0.75 mg/L. 0.0636 mg/L. 1.0 mg/L. 0.0816 mg/L. 0.117 mg/L.	

[1] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

6.O Sector O—Steam Electric Generating Facilities

6.O.1 Covered Storm Water Discharges

The requirements in Part 6.O apply to storm water discharges associated with industrial activity from Steam Electric Power Generating Facilities as identified by the Activity Code specified under Sector O in Table 1–1 of Part 1.2.1.

6.O.2 Industrial Activities Covered by Sector O

This permit authorizes storm water discharges from the following industrial activities at Sector O facilities:

6.O.2.1 Steam electric power generation using coal, natural gas, oil, nuclear energy, etc. to produce a steam source, including coal handling areas;

6.O.2.2 Coal pile runoff, including effluent limitations established by 40 CFR Part 423;

6.O.2.3 Dual fuel co-generation facilities.

6.O.3 Limitations on Coverage

6.O.3.1 *Prohibition of Non-Storm Water Discharges.* Not covered by this permit: non-storm water discharges subject to effluent limitations guidelines.

6.O.3.2 *Prohibition of Storm Water Discharges.* Not covered by this permit: storm water discharges from ancillary facilities (*e.g.,* fleet centers, gas turbine stations and substations) that are not contiguous to a stream electric power generating facility; and heat capture co-generation facilities.

6.O.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.O.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify the locations of any of the following activities or sources which may be exposed to precipitation / surface runoff: storage tanks, scrap yards, general refuse areas; short and long term storage of general materials (including but not limited to: supplies, construction materials, paint equipment, oils, fuels, used and unused solvents, cleaning materials, paint, water treatment chemicals, fertilizer and pesticides); landfills, construction sites; stock piles areas (*e.g.,* coal or limestone piles).

6.O.4.2 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.O.4.2.1 *Fugitive Dust Emissions.* Describe and implement measures that prevent or minimize fugitive dust emissions from coal handling areas. Consider such procedures to minimize the tracking of coal dust offsite as installing specially designed tires, or washing vehicles in a designated area before they leave the site and controlling the wash water.

6.O.4.2.2 *Delivery Vehicles.* Describe and implement measures that prevent or minimize contamination of storm water runoff from delivery vehicles arriving at the plant site. Consider the following: procedures to inspect delivery vehicles arriving at the plant site and ensure overall integrity of the body or container; and procedures to deal with leakage / spillage from vehicles or containers.

6.O.4.2.3 *Fuel Oil Unloading Areas.* Describe and implement measures that prevent or minimize contamination of precipitation / surface runoff from fuel oil unloading areas. Consider, at a minimum (or their equivalents): using containment curbs in unloading areas; having personnel familiar with spill prevention and response procedures present during deliveries to ensure that any leaks / spills are immediately contained and cleaned up; using spill and overflow protection (*e.g.,* drip pans, drip diapers or other containment devices placed beneath fuel oil connectors to contain potential spillage during deliveries or from leaks at the connectors).

6.O.4.2.4 *Chemical Loading / Unloading.* Describe and implement measures that prevent or minimize contamination of precipitation / surface runoff from chemical loading / unloading areas. Consider, at a minimum (or their equivalents): using containment curbs at chemical loading / unloading areas to contain spill; having personnel familiar with spill prevention and response procedures present during deliveries to ensure that any leaks / spills are immediately contained and cleaned up; and load / unload in covered areas and store chemicals indoors.

6.O.4.2.5 *Miscellaneous Loading / Unloading Areas.* Describe and implement measures that prevent or minimize contamination of precipitation / surface runoff from loading / unloading areas. Consider, at a minimum (or their equivalents): covering the loading area; grading, berming, or curbing around the loading area to divert run-on; or locating the loading / unloading equipment and vehicles so leaks are contained in existing containment and flow diversion systems.

6.O.4.2.6 *Liquid Storage Tanks.* Describe and implement measures that prevent or minimize contamination of surface runoff from above ground liquid storage tanks. Consider using, at a minimum (or their equivalents): protective guards around tank; containment curbs; spill and overflow protection; and dry cleanup methods.

6.O.4.2.7 *Large Bulk Fuel Storage Tanks.* Describe and implement measures that prevent or minimize contamination of surface runoff from large bulk fuel storage tanks. Consider,

at a minimum, using containment berms (or its equivalent). You must also comply with applicable State and Federal laws, including Spill Prevention Control and Countermeasures (SPCC).

6.O.4.2.8 *Spill Reduction Measures.* Describe and implement measures to reduce the potential for an oil / chemical spill or reference the appropriate Part of your SPCC plan. At a minimum, visually inspect on a weekly basis, the structural integrity of all above ground tanks, pipelines, pumps and other related equipment, and effect any necessary repairs immediately.

6.O.4.2.9 *Oil Bearing Equipment in Switchyards.* Describe and implement measures that prevent or minimize contamination of surface runoff from oil bearing equipment in switchyard areas. Consider using level grades and gravel surfaces to retard flows and limit the spread of spills or collecting runoff in perimeter ditches.

6.O.4.2.10 *Residue Hauling Vehicles.* Inspect all residue hauling vehicles for proper covering over the load, adequate gate sealing and overall integrity of the container body. Repair as soon as practicable, vehicles without load covering or adequate gate sealing, or with leaking containers or beds.

6.O.4.2.11 *Ash Loading Areas.* Describe and implement procedures to reduce or control the tracking of ash/residue from ash loading areas. Where practicable, clear the ash building floor and immediately adjacent roadways of spillage, debris and excess water before departure of each loaded vehicle.

6.O.4.2.12 *Areas Adjacent to Disposal Ponds or Landfills.* Describe and implement measures that prevent or minimize contamination of surface runoff from areas adjacent to disposal ponds or landfills. Develop procedures to reduce ash residue that may be tracked on to access roads traveled by residue handling vehicles, and reduce ash residue on exit roads leading into and out of residue handling areas.

6.O.4.2.13 *Landfills, Scrap Yards, Surface Impoundments, Open Dumps, General Refuse Sites.*

Address these areas in your SWPPP and include appropriate BMPs as referred to in Part 4.

6.O.4.2.14 *Vehicle Maintenance Activities.* For vehicle maintenance activities performed on the plant site, use the applicable BMPs outlined in Part 6.P.

6.O.4.2.15 *Material Storage Areas.* Describe and implement measures that prevent or minimize contamination of storm water runoff from material storage areas (including areas used for temporary storage of miscellaneous products and construction materials stored in lay-down areas). Consider using (or their equivalents): Flat yard grades; collecting runoff in graded swales or ditches; erosion protection measures at steep outfall sites (*e.g.*, concrete chutes, riprap, stilling basins); covering lay-down areas; storing materials indoors; and covering materials temporarily with polyethylene, polyurethane, polypropylene or hypalon. Storm water run-on may be minimized by constructing an enclosure or building a berm around the area.

6.O.4.3 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9.3) As part of your evaluation, inspect the following areas on a monthly basis: Coal handling areas, loading/unloading areas, switchyards, fueling areas, bulk storage areas, ash handling areas, areas adjacent to disposal ponds and landfills, maintenance areas, liquid storage tanks, and long term and short term material storage areas.

6.O.5 Monitoring and Reporting Requirements. (See also Part 5)

TABLE O–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cut-off concentration [1]	Numeric Limitation [2]
Part of Permit Affected/Supplemental Requirements			
Steam Electric Generating Facilities (Industrial Activity Code ''SE'').	Total Recoverable Iron	1.0 mg/L.	

[1] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

[2] Note that the numeric effluent limitation guidelines for coal pile runoff at steam electric generating facilities have been adopted as a standard numeric limits for all coal pile runoff. See Part 5.1.3.

6.P Sector P—Land Transportation and Warehousing

6.P.1 Covered Storm Water Discharges

The requirements in Part 6.P apply to storm water discharges associated with industrial activity from Land Transportation and Warehousing facilities as identified by the Activity Code specified under Sector P in Table 1–1 of Part 1.2.1.

6.P.2 Industrial Activities Covered by Sector P

The types of activities that permittees under Sector P are primarily engaged in are:

6.P.2.1 vehicle and equipment maintenance (vehicle and equipment rehabilitation, mechanical repairs, painting, fueling and lubrication);

6.P.2.2 equipment cleaning.

6.P.3 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.P.3.1 *Drainage Site Map.* (See also Part 4.2.2.3) Identify the locations of any of the following activities or sources: Fueling stations; vehicle/equipment maintenance or cleaning areas; storage areas for vehicle/equipment with actual or potential fluid leaks; loading/unloading areas; areas where treatment, storage or disposal of wastes occur; liquid storage tanks; processing areas; storage areas; and all monitoring areas.

6.P.3.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe and assess the potential for the following to contribute pollutants to storm water discharges: Onsite waste storage or disposal; dirt/gravel parking areas for vehicles awaiting maintenance; and fueling areas.

6.P.3.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.P.3.3.1 *Vehicle and Equipment Storage Areas.* Confine the storage of leaky or leak-prone vehicles/equipment awaiting maintenance to designated areas. Consider the following (or other equivalent measures): The use of drip pans under vehicles/equipment, indoor storage of vehicles and equipment, installation of berms or dikes, use of absorbents, roofing or covering storage areas, and cleaning pavement surfaces to remove oil and grease.

6.P.3.3.2 *Fueling Areas.* Implement and describe measures that prevent or

minimize contamination of storm water runoff from fueling areas. Consider the following (or other equivalent measures): Covering the fueling area; using spill/overflow protection and cleanup equipment; minimizing storm water runon/runoff to the fueling area; using dry cleanup methods; and treating and/or recycling collected storm water runoff.

6.P.3.3.3 *Material Storage Areas.* Maintain all material storage vessels (*e.g.*, for used oil/oil filters, spent solvents, paint wastes, hydraulic fluids) to prevent contamination of storm water and plainly label them (*e.g.*, ''Used Oil,'' ''Spent Solvents,'' etc.). Consider the following (or other equivalent measures): storing the materials indoors; installing berms/dikes around the areas; minimizing runoff of storm water to the areas; using dry cleanup methods; and treating and/or recycling collected storm water runoff.

6.P.3.3.4 *Vehicle and Equipment Cleaning Areas.* Implement and describe measures that prevent or minimize contamination of storm water runoff from all areas used for vehicle/equipment cleaning. Consider the following (or other equivalent measures): performing all cleaning operations indoors; covering the cleaning operation, ensuring that all washwater drains to a proper collection system (*i.e.*, not the storm water drainage system unless NPDES permitted); treating and/or recycling collected storm water runoff, or other equivalent measures. Note: the discharge of vehicle/equipment washwater, including tank cleaning operations, are not authorized by this permit and must be covered under a separate NPDES permit or discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements.

6.P.3.3.5 *Vehicle and Equipment Maintenance Areas.* Implement and describe measures that prevent or minimize contamination of storm water runoff from all areas used for vehicle/equipment maintenance. Consider the following (or other equivalent measures): performing maintenance activities indoors; using drip pans; keeping an organized inventory of materials used in the shop; draining all parts of fluid prior to disposal; prohibiting wet clean up practices if these practices would result in the discharge of pollutants to storm water drainage systems; using dry cleanup methods; treating and/or recycling collected storm water runoff, minimizing run on/runoff of storm water to maintenance areas.

6.P.3.3.6 *Locomotive Sanding (Loading Sand for Traction) Areas.* Consider the following (or other equivalent measures): covering sanding areas; minimizing storm water run on/runoff; or appropriate sediment removal practices to minimize the offsite transport of sanding material by storm water.

6.P.3.4 *Inspections.* (See also Part 4.2.7.2.1.5) Inspect all the following areas/activities: storage areas for vehicles/equipment awaiting maintenance, fueling areas, indoor and outdoor vehicle/equipment maintenance areas, material storage areas, vehicle/equipment cleaning areas and loading/unloading areas.

6.P.3.5 *Employee Training.* (See also Part 4.2.7.2.1.6) Train personnel at least once a year and address the following, as applicable: used oil and spent solvent management; fueling procedures; general good housekeeping practices; proper painting procedures; and used battery management.

6.P.3.6 *Vehicle and Equipment Washwater Requirements.* (See also Part 4.4) Attach to or reference in your SWPPP, a copy of the NPDES permit issued for vehicle/equipment washwater or, if an NPDES permit has not been issued, a copy of the pending application. If an industrial user permit is issued under a pretreatment program, attach a copy to your SWPPP. In any case, address all non-storm water permit conditions or pretreatment conditions in your SWPPP. If washwater is handled in another manner (*e.g.*, hauled offsite), describe the disposal method and attach all pertinent documentation/information (*e.g.*, frequency, volume, destination, etc.) in the plan.

6.Q Sector Q—Water Transportation

6.Q.1 Covered Storm Water Discharges

The requirements in Part 6.Q apply to storm water discharges associated with industrial activity from Water Transportation facilities as identified by the Activity Code specified under Sector Q in Table 1–1 of Part 1.2.1.

6.Q.2 Industrial Activities Covered by Sector Q

The requirements listed under this Part apply to storm water discharges associated with the following activities:

6.Q.2.1 Water transportation facilities classified in SIC Code major group 44 that have vehicle (vessel) maintenance shops and/or equipment cleaning operations including:

6.Q.2.1.1 Water transportation industry includes facilities engaged in foreign or domestic transport of freight or passengers in deep sea or inland waters;

6.Q.2.1.2 Marine cargo handling operations;

6.Q.2.1.3 Ferry operations;

6.Q.2.1.4 Towing and tugboat services;

6.Q.2.1.5 Marinas.

6.Q.3 Limitations on Coverage

6.Q.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.1) Not covered by this permit: bilge and ballast water, sanitary wastes, pressure wash water and cooling water originating from vessels.

6.Q.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.Q.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: fueling; engine maintenance/repair; vessel maintenance/repair; pressure washing; painting; sanding; blasting; welding; metal fabrication; loading/unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; liquid storage areas (*e.g.*, paint, solvents, resins); and material storage areas (*e.g.*, blasting media, aluminum, steel, scrap iron).

6.Q.4.2 *Summary of Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following additional sources and activities that have potential pollutants associated with them: outdoor manufacturing or processing activities (*i.e.*, welding, metal fabricating); and significant dust or particulate generating processes (*e.g.*, abrasive blasting, sanding, painting).

6.Q.4.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.Q.4.3.1 *Pressure Washing Area.* If pressure washing is used to remove marine growth from vessels, the discharge water must be permitted by a separate NPDES permit. Describe in the SWPPP: the measures to collect or contain the discharges from the pressures washing area; the method for the removal of the visible solids; the methods of disposal of the collected solids; and where the discharge will be released.

6.Q.4.3.2 *Blasting and Painting Area.* Implement and describe measures to prevent spent abrasives, paint chips and over spray from discharging into the receiving water or the storm sewer systems. Consider containing all blasting/painting activities or use other measures to prevent or minimize the discharge the contaminants (*e.g.*,

hanging plastic barriers or tarpaulins during blasting or painting operations to contain debris). Where necessary, regularly clean storm water conveyances of deposits of abrasive blasting debris and paint chips. Detail in the SWPPP any standard operating practices relating to blasting/painting (*e.g.*, prohibiting uncontained blasting/painting over open water, or prohibiting blasting/painting during windy conditions which can render containment ineffective).

6.Q.4.3.3 *Material Storage Areas.* Store and plainly label all containerized materials (*e.g.*, fuels, paints, solvents, waste oil, antifreeze, batteries) in a protected, secure location away from drains. Implement and describe measures to prevent or minimize the contamination of precipitation/surface runoff from the storage areas. Specify which materials are stored indoors and consider containment or enclosure for those stored outdoors. If abrasive blasting is performed, discus the storage and disposal of spent abrasive materials generated at the facility. Consider implementing an inventory control plan to limit the presence of potentially hazardous materials onsite.

6.Q.4.3.4 *Engine Maintenance and Repair Areas.* Implement and describe measures to prevent or minimize the contamination of precipitation/surface runoff from all areas used for engine maintenance and repair. Consider the following (or their equivalents): performing all maintenance activities indoors; maintaining an organized inventory of materials used in the shop; draining all parts of fluid prior to disposal; prohibiting the practice of hosing down the shop floor; using dry cleanup methods; and treating and/or recycling storm water runoff collected from the maintenance area.

6.Q.4.3.5 *Material Handling Area.* Implement and describe measures to prevent or minimize the contamination of precipitation/surface runoff from material handling operations and areas (*e.g.*, fueling, paint and solvent mixing, disposal of process wastewater streams from vessels). Consider the following (or their equivalents): covering fueling areas; using spill/overflow protection; mixing paints and solvents in a designated area (preferably indoors or under a shed); and minimize runoff of storm water to material handling areas.

6.Q.4.3.6 *Drydock Activities.* Describe your procedures for routinely maintaining/cleaning the drydock to prevent or minimize pollutants in storm water runoff. Address the cleaning of accessible areas of the drydock prior to flooding, and final cleanup following removal of the vessel and raising the dock. Include procedures for cleaning up oil, grease or fuel spills occurring on the drydock. Consider the following (or their equivalents): sweeping rather than hosing off debris/spent blasting material from accessible areas of the drydock prior to flooding, and having absorbent materials and oil containment booms readily available to contain/cleanup any spills.

6.Q.4.3.7 *General Yard Area.* Implement and describe a schedule for routine yard maintenance and cleanup. Regularly remove from the general yard area: scrap metal, wood, plastic, miscellaneous trash, paper, glass, industrial scrap, insulation, welding rods, packaging, etc.

6.Q.4.4 *Preventative Maintenance.* (See also Part 4.2.7.2.1.4) As part of your preventive maintenance program, perform timely inspection and maintenance of storm water management devices (*e.g.*, cleaning oil/water separators and sediment traps to ensure that spent abrasives, paint chips and solids will be intercepted and retained prior to entering the storm drainage system) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

6.Q.4.5 *Inspections.* (See also Part 4.2.7.2.1.5) Include the following areas in all monthly inspections: pressure washing area; blasting, sanding and painting areas; material storage areas; engine maintenance/repair areas; material handling areas; drydock area; and general yard area.

6.Q.4.6 *Employee Training.* (See also Part 4.2.7.2.1.6) As part of your employee training program, address, at a minimum, the following activities (as applicable): used oil management; spent solvent management; disposal of spent abrasives; disposal of vessel wastewaters; spill prevention and control; fueling procedures; general good housekeeping practices; painting and blasting procedures; and used battery management.

6.Q.4.7 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9) Conduct regularly scheduled evaluations at least once a year and address those areas contributing to a storm water discharge associated with industrial activity (*e.g.*, pressure washing area, blasting/sanding areas, painting areas, material storage areas, engine maintenance/repair areas, material handling areas, and drydock area). Inspect these sources for evidence of, or the potential for, pollutants entering the drainage system.

6.Q.5 Monitoring and Reporting Requirements. (See also Part 5)

TABLE Q–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cut-off concentration [1]	Numeric limitation
Part of Permit Affected/Supplemental Requirements			
Water Transportation Facilities (SIC 4412–4499)	Total Recoverable Aluminum..	0.75 mg/L	
		1.0 mg/L	
	Total Recoverable Iron.	0.0816 mg/L	
	Total Recoverable Lead. ...	0.117 mg/L	
	Total Recoverable Zinc.		

[1] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

6.R Sector R—Ship and Boat Building or Repair Yards

6.R.1 Covered Storm Water Discharges

The requirements in Part 6.R apply to storm water discharges associated with industrial activity from Ship and Boat Building or Repair Yards as identified by the Activity Codes specified under Sector R in Table 1–1 of Part 1.2.1.

6.R.2 Industrial Activities Covered by Sector R

The types of activities that permittees under Sector R are primarily engaged in are:

6.R.2.1 Ship building and repairing and boat building and repairing [3]

6.R.3 Limitations on Coverage

6.R.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.1) Not covered by this permit: discharges containing bilge and ballast water, sanitary wastes, pressure wash water and cooling water originating from vessels.

6.R.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.R.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: fueling; engine maintenance/repair; vessel maintenance/repair; pressure washing; painting; sanding; blasting; welding; metal fabrication; loading/unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; liquid storage areas (*e.g.*, paint, solvents, resins); and material storage areas (*e.g.*, blasting media, aluminum, steel, scrap iron).

6.R.4.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following additional sources and activities that have potential pollutants associated with them (if applicable): outdoor manufacturing/processing activities (*e.g.*, welding, metal fabricating); and significant dust/particulate generating processes (*e.g.*, abrasive blasting, sanding, painting).

6.R.4.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.R.4.3.1 *Pressure Washing Area.* If pressure washing is used to remove marine growth from vessels, the discharge water must be permitted as a process wastewater by a separate NPDES permit.

6.R.4.3.2 *Blasting and Painting Area.* Implement and describe measures to prevent spent abrasives, paint chips and over spray from discharging into the receiving water or the storm sewer systems. Consider containing all blasting/painting activities or use other measures to prevent the discharge of the contaminants (*e.g.*, hanging plastic barriers or tarpaulins during blasting or painting operations to contain debris). Where necessary, regularly clean storm water conveyances of deposits of abrasive blasting debris and paint chips. Detail in the SWPPP any standard operating practices relating to blasting/painting (*e.g.*, prohibiting uncontained blasting/painting over open water, or prohibiting blasting/painting during windy conditions which can render containment ineffective).

6.R.4.3.3 *Material Storage Areas.* Store and plainly label all containerized materials (*e.g.*, fuels, paints, solvents, waste oil, antifreeze, batteries) in a protected, secure location away from drains. Implement and describe measures to prevent or minimize the contamination of precipitation/surface runoff from the storage areas. Specify which materials are stored indoors and consider containment or enclosure for those stored outdoors. If abrasive blasting is performed, discuss the storage and disposal of spent abrasive materials generated at the facility. Consider implementing an inventory control plan to limit the presence of potentially hazardous materials onsite.

6.R.4.3.4 *Engine Maintenance and Repair Areas.* Implement and describe measures to prevent or minimize the contamination of precipitation/surface runoff from all areas used for engine maintenance and repair. Consider the following (or their equivalents): performing all maintenance activities indoors; maintaining an organized inventory of materials used in the shop; draining all parts of fluid prior to disposal; prohibiting the practice of hosing down the shop floor; using dry cleanup methods; and treating and/or recycling storm water runoff collected from the maintenance area.

6.R.4.3.5 *Material Handling Area.* Implement and describe measures to prevent or minimize the contamination of precipitation/surface runoff from material handling operations and areas (*e.g.*, fueling, paint and solvent mixing, disposal of process wastewater streams from vessels). Consider the following (or their equivalents): covering fueling areas; using spill/overflow protection; mixing paints and solvents in a designated area (preferably indoors or under a shed); and minimize runon of storm water to material handling areas.

6.R.4.3.6 *Drydock Activities.* Describe your procedures for routinely maintaining/cleaning the drydock to prevent or minimize pollutants in storm water runoff. Address the cleaning of accessible areas of the drydock prior to flooding, and final cleanup following removal of the vessel and raising the dock. Include procedures for cleaning up oil, grease or fuel spills occurring on the drydock. Consider the following (or their equivalents): sweeping rather than hosing off debris/spent blasting material from accessible areas of the drydock prior to flooding, and having absorbent materials and oil containment booms readily available to contain/cleanup any spills.

6.R.4.3.7 *General Yard Area.* Implement and describe a schedule for routine yard maintenance and cleanup. Regularly remove from the general yard area: scrap metal, wood, plastic, miscellaneous trash, paper, glass, industrial scrap, insulation, welding rods, packaging, etc.

6.R.4.4 *Preventative Maintenance.* (See also Part 4.2.7.2.1.4) As part of your preventive maintenance program, perform timely inspection and maintenance of storm water management devices (*e.g.*, cleaning oil/water separators and sediment traps to ensure that spent abrasives, paint chips and solids will be intercepted and retained prior to entering the storm drainage system) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

6.R.4.5 *Inspections.* (See also Part 4.2.7.2.1.5) Include the following areas in all monthly inspections: pressure washing area; blasting, sanding and painting areas; material storage areas; engine maintenance/repair areas; material handling areas; drydock area; and general yard area.

6.R.4.6 *Employee Training.* (See also Part 4.2.7.2.1.6) As part of your employee training program, address, at a minimum, the following activities (as applicable): used oil management; spent solvent management; disposal of spent abrasives; disposal of vessel wastewaters; spill prevention and control; fueling procedures; general good housekeeping practices; painting and blasting procedures; and used battery management.

6.R.4.7 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9) Conduct regularly scheduled evaluations at least once a year and address those areas contributing to a storm water discharge associated with industrial activity (*e.g.*, pressure

[3] According to the U.S. Coast Guard, a vessel 65 feet or greater in length is referred to as a ship, and a vessel smaller than 65 feet is a boat.

washing area, blasting/sanding areas, painting areas, material storage areas, engine maintenance/repair areas, material handling areas, and drydock area). They must be visually inspected for evidence of, or the potential for, pollutants entering the drainage system.

6.S Sector S—Air Transportation

6.S.1 Covered Storm Water Discharges

The requirements in Part 6.S apply to storm water discharges associated with industrial activity from Air Transportation facilities as identified by the SIC Codes specified under Sector S in Table 1–1 of Part 1.2.1.

6.S.2 Industrial Activities Covered by Sector S

The types of activities that permittees under Sector S are primarily engaged in are:

6.S.2.1 Air transportation, scheduled, and air courier;

6.S.2.2 Air transportation, non scheduled;

6.S.2.3 Airports; flying fields, except those maintained by aviation clubs; and airport terminal services including: air traffic control, except government; aircraft storage at airports; aircraft upholstery repair; airfreight handling at airports; airport hangar rental; airport leasing, if operating airport; airport terminal services; and hangar operations.

6.S.2.4 Airport and aircraft service and maintenance including: aircraft cleaning and janitorial service; aircraft servicing/repairing, except on a factory basis; vehicle maintenance shops; material handling facilities; equipment clearing operations; and airport and aircraft deicing/anti-icing.

Note: ''deicing'' will generally be used to imply both deicing (removing frost, snow or ice) and anti-icing (preventing accumulation of frost, snow or ice) activities, unless specific mention is made regarding anti-icing and/or deicing activities.

6.S.3 Limitations on Coverage

Only those portions of the facility that are involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling and lubrication), equipment cleaning operations or deicing operations are addressed in Part 6.S.

6.S.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.1) Not covered by this permit: aircraft, ground vehicle, runway and equipment washwaters; and dry weather discharges of deicing chemicals. These discharges must be covered by a separate NPDES permit.

6.S.4 Special Conditions

6.S.4.1 *Hazardous Substances or Oil.* (See also Part 3.1) Each individual permittee is required to report spills equal to or exceeding the reportable quantity (RQ) levels specified at 40 CFR 110, 117 and 302 as described at Part 3.2. If an airport authority is the sole permittee, then the sum total of all spills at the airport must be assessed against the RQ. If the airport authority is a co-permittee with other deicing operators at the airport, such as numerous different airlines, the assessed amount must be the summation of spills by each co-permittee. If separate, distinct individual permittees exist at the airport, then the amount spilled by each separate permittee must be the assessed amount for the RQ determination.

6.S.5 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4 of the MSGP.

(See also Part 4.1) If an airport's tenant has a SWPPP for discharges from their own areas of the airport, that SWPPP must be integrated with the plan for the entire airport. Tenants of the airport facility include air passenger or cargo companies, fixed based operators and other parties who have contracts with the airport authority to conduct business operations on airport property and whose operations result in storm water discharges associated with industrial activity.

6.S.5.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: aircraft and runway deicing operations; fueling stations; aircraft, ground vehicle and equipment maintenance/cleaning areas; storage areas for aircraft, ground vehicles and equipment awaiting maintenance.

6.S.5.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Include in your inventory of exposed materials a description of the potential pollutant sources from the following activities: aircraft, runway, ground vehicle and equipment maintenance and cleaning; aircraft and runway deicing operations (including apron and centralized aircraft deicing stations, runways, taxiways and ramps). If you use deicing chemicals, you must maintain a record of the types (including the Material Safety Data Sheets [MSDS]) used and the monthly quantities, either as measured or, in the absence of metering, as estimated to the best of your knowledge. This includes all deicing chemicals, not just glycols and urea (*e.g.,* potassium acetate), because large quantities of these other chemicals can still have an adverse impact on receiving waters. Tenants or other fixed-based operations that conduct deicing operations must provide the above information to the airport authority for inclusion in any comprehensive airport SWPPPs.

6.S.5.3 *Good Housekeeping Measures.* (See also 4.2.7)

6.S.5.3.1 *Aircraft, Ground Vehicle and Equipment Maintenance Areas.* Describe and implement measures that prevent or minimize the contamination of storm water runoff from all areas used for aircraft, ground vehicle and equipment maintenance (including the maintenance conducted on the terminal apron and in dedicated hangers). Consider the following practices (or their equivalents): performing maintenance activities indoors; maintaining an organized inventory of material used in the maintenance areas; draining all parts of fluids prior to disposal; preventing the practice of hosing down the apron or hanger floor; using dry cleanup methods; and collecting the storm water runoff from the maintenance area and providing treatment or recycling.

6.S.5.3.2 *Aircraft, Ground Vehicle and Equipment Cleaning Areas.* Clean equipment only in the areas identified in the SWPPP and site map and clearly demarcate these areas on the ground. Describe and implement measures that prevent or minimize the contamination of storm water runoff from cleaning areas.

6.S.5.3.3 *Aircraft, Ground Vehicle and Equipment Storage Areas.* Store all aircraft, ground vehicles and equipment awaiting maintenance in designated areas only. Consider the following BMPs (or their equivalents): storing aircraft and ground vehicles indoors; using drip pans for the collection of fluid leaks; and perimeter drains, dikes or berms surrounding the storage areas.

6.S.5.3.4 *Material Storage Areas.* Maintain the vessels of stored materials (*e.g.,* used oils, hydraulic fluids, spent solvents, and waste aircraft fuel) in good condition, to prevent or minimize contamination of storm water. Also plainly label the vessels (e.g., ''used oil,'' ''Contaminated Jet A,'' etc.). Describe and implement measures that prevent or minimize contamination of precipitation/runoff from these areas. Consider the following BMPs (or their equivalents): storing materials indoors; storing waste materials in a centralized location; and installing berms/dikes around storage areas.

6.S.5.3.5 *Airport Fuel System and Fueling Areas.* Describe and implement

measures that prevent or minimize the discharge of fuel to the storm sewer/surface waters resulting from fuel servicing activities or other operations conducted in support of the airport fuel system. Consider the following BMPs (or their equivalents): implementing spill and overflow practices (*e.g.,* placing absorptive materials beneath aircraft during fueling operations); using dry cleanup methods; and collecting storm water runoff.

6.S.5.3.6 *Source Reduction.* Consider alternatives to the use of urea and glycol-based deicing chemicals to reduce the aggregate amount of deicing chemicals used and/or lessen the environmental impact. Chemical options to replace ethylene glycol, propylene glycol and urea include: potassium acetate; magnesium acetate; calcium acetate; anhydrous sodium acetate.

6.S.5.3.6.1 *Runway Deicing Operation:* Evaluate, at a minimum, whether over-application of deicing chemicals occurs by analyzing application rates and adjusting as necessary, consistent with considerations of flight safety. Also consider these BMP options (or their equivalents): metered application of chemicals; pre-wetting dry chemical constituents prior to application; installing a runway ice detection system; implementing anti-icing operations as a preventive measure against ice buildup.

6.S.5.3.6.2 *Aircraft Deicing Operations:* As in Part 6.S.5.3.6.1, determine whether excessive application of deicing chemicals occurs and adjust as necessary, consistent with considerations of flight safety. EPA intends for this evaluation to be carried out by the personnel most familiar with the particular aircraft and flight operations in question (vice an outside entity such as the airport authority). Consider using alternative deicing/anti-icing agents as well as containment measures for all applied chemicals. Also consider these BMP options (or their equivalents) for reducing deicing fluid use: forced-air deicing systems, computer-controlled fixed-gantry systems, infrared technology, hot water, varying glycol content to air temperature, enclosed-basket deicing trucks, mechanical methods, solar radiation, hangar storage, aircraft covers, thermal blankets for MD–80s and DC–9s. Also consider using ice-detection systems and airport traffic flow strategies and departure slot allocation systems.

6.S.5.3.7 Management of Runoff. Where deicing operations occur, describe and implement a program to control or manage contaminated runoff to reduce the amount of pollutants being discharged from the site. Consider these BMP options (or their equivalents): a dedicated deicing facility with a runoff collection/recovery system; using vacuum/collection trucks; storing contaminated storm water/deicing fluids in tanks and releasing controlled amounts to a publicly owned treatment works; collecting contaminated runoff in a wet pond for biochemical decomposition (be aware of attracting wildlife that may prove hazardous to flight operations); and directing runoff into vegetative swales or other infiltration measures. Also consider recovering deicing materials when these materials are applied during non-precipitation events (*e.g.,* covering storm sewer inlets, using booms, installing absorptive interceptors in the drains, etc.) to prevent these materials from later becoming a source of storm water contamination. Used deicing fluid should be recycled whenever possible.

6.S.5.4 *Inspections.* (See also Part 4.2.7.2.1.5) Specify the frequency of inspections in your SWPPP. At a minimum they must be conducted monthly during the deicing season (*e.g.,* October through April for most mid-latitude airports). If your facility needs to deice before or after this period, expand the monthly inspections to include all months during which deicing chemicals may be used. Also, if significantly or deleteriously large quantities of deicing chemicals are being spilled or discharged, or if water quality impacts have been reported, increase the frequency of your inspections to weekly until such time as the chemical spills/discharges or impacts are reduced to acceptable levels. The Director may specifically require you to increase inspections and SWPPP reevaluations as necessary.

6.S.5.5 *Comprehensive Site Compliance Evaluation.* (See also 4.9)

(See also Part 4.9)

Using only qualified personnel, conduct your annual site compliance evaluations during periods of actual deicing operations, if possible. If not practicable during active deicing or the weather is too inclement, conduct the evaluations when deicing operations are likely to occur and the materials and equipment for deicing are in place.

6.S.6 Monitoring and Reporting Requirements. (See also Part 5)

TABLE S–1.—SECTOR-SPECIFIC NUMBERIC LIMITATIONS AND BENCHMARK MONITORING

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark monitoring cut-off concentration[1]	Numeric limitation
Sector of Permit Affected/Supplemental Requirements			
Facilities at airports that use more than 100,000 gallons of glycol-based deicing/anti-icing chemicals and/or 100 tons or more of urea on an average annual basis: monitor ONLY those outfalls from the airport facility that collect runoff from areas where deicing/anti-icing activities occur (SIC 45XX).	Biochemical Oxygen Demand (BOD_5).	30 mg/L	120.0mg/L.
		Chemical Oxygen Demand COD).	Ammonia 19 mg/L.
			pH 6/0 to 9 s.u

[1] Monitor once/quarter for the year 2 and year 4 monitoring years.

6.T Sector T—Treatment Works

6.T.1 Covered Storm Water Discharges

The requirements in Part 6.T apply to storm water discharges associated with industrial activity from Treatment Works as identified by the Activity Code specified under Sector T in Table 1–1 of Part 1.2.1.

6.T.2 Industrial Activities Covered by Sector T

The requirements listed under this Part apply to all existing point source storm water discharges associated with the following activities:

6.T.2.1 treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system used in the storage, treatment, recycling and reclamation of municipal

or domestic sewage; including land dedicated to the disposal of sewage sludge; that are located within the confines of the facility with a design flow of 1.0 MGD or more; or required to have an approved pretreatment program under 40 CFR Part 403.

6.T.2.2 Not required to have permit coverage: farm lands; domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located within the facility; or areas that are in compliance with Section 405 of the CWA.

6.T.3 Limitations on Coverage

6.T.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.1) Not authorized by this permit: sanitary and industrial wastewater; and equipment/vehicle washwater.

6.T.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.T.4.1 *Site Map.* (See also Part 4.2.2.3.6) Identify where any of the following may be exposed to precipitation/surface runoff: grit, screenings and other solids handling, storage or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station; and storage areas for process chemicals, petroleum products, solvents, fertilizers, herbicides and pesticides.

6.T.4.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following additional sources and activities that have potential pollutants associated with them, as applicable: grit, screenings and other solids handling, storage or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station; and access roads/rail lines.

6.T.4.3 *Best Management Practices (BMPs).* (See also Part 4.2.7.2) In addition to the other BMPs considered, consider the following: routing storm water to the treatment works; or covering exposed materials (*i.e.,* from the following areas: grit, screenings and other solids handling, storage or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station).

6.T.4.4 *Inspections.* (See also Part 4.2.7.2.1.5) Include the following areas in all inspections: access roads/rail lines; grit, screenings and other solids handling, storage or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station areas.

6.T.4.5 *Employee Training.* (See also Part 4.2.7.2.1.6) At a minimum, must address the following areas when applicable to a facility: petroleum product management; process chemical management; spill prevention and controls; fueling procedures; general good housekeeping practices; proper procedures for using fertilizer, herbicides and pesticides.

6.T.4.6 *Wastewater and Washwater Requirements.* (See also Part 4.4) Attach to your SWPPP a copy of all your current NPDES permits issued for wastewater, industrial, vehicle and equipment washwater discharges or, if an NPDES permit has not yet been issued, a copy of the pending applications. Address any requirements/conditions from the other permits, as appropriate, in the SWPPP. If the washwater is handled in another manner, the disposal method must be described and all pertinent documentation must be attached to the plan.

6.U Sector U—Food and Kindred Products

6.U.1 Covered Storm Water Discharges

The requirements in Part 6.U apply to storm water discharges associated with industrial activity from Food and Kindred Products facilities as identified by the SIC Codes specified in Table 1–1 of Part 1.2.1.

6.U.2 Industrial Activities Covered by Sector U

The types of activities that permittees under Sector U are primarily engaged in are:

6.U.2.1 meat products;
6.U.2.2 dairy products;
6.U.2.3 canned, frozen and preserved fruits, vegetables, and food specialties;
6.U.2.4 grain mill products;
6.U.2.5 bakery products;
6.U.2.6 sugar and confectionery products;
6.U.2.7 fats and oils;
6.U.2.8 beverages;
6.U.2.9 miscellaneous food preparations and kindred products and tobacco products manufacturing.

6.U.3 Limitations on Coverage

Not covered by this permit: storm water discharges identified under Part 1.2.3 from industrial plant yards, material handling sites; refuse sites; sites used for application or disposal of process wastewaters; sites used for storage and maintenance of material handling equipment; sites used for residential wastewater treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; and storage areas for raw material and intermediate and finished products. This includes areas where industrial activity has taken place in the past and significant materials remain. ''Material handling activities'' include the storage, loading/unloading, transportation or conveyance of any raw material, intermediate product, finished product, by-product or waste product.

6.U.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.2.2) Not authorized by this permit: discharges subject to Part 1.2.2.2 include discharges containing: boiler blowdown, cooling tower overflow and blowdown, ammonia refrigeration purging and vehicle washing/clean-out operations.

6.U.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.U.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify the locations of the following activities if they are exposed to precipitation/runoff: vents/stacks from cooking, drying and similar operations; dry product vacuum transfer lines; animal holding pens; spoiled product; and broken product container storage areas.

6.U.4.2 *Potential Pollutant Sources.*(See also Part 4.2.4) Describe, in addition to food and kindred products processing-related industrial activities, application and storage of pest control chemicals (*e.g.,* rodenticides, insecticides, fungicides, etc.) used on plant grounds.

6.U.4.3 *Inspections.*(See also Part 4.2.7.2.1.5) Inspect on a regular basis, at a minimum, the following areas where the potential for exposure to storm water exists: loading and unloading areas for all significant materials; storage areas including associated containment areas; waste management units; vents and stacks emanating from industrial activities; spoiled product and broken product container holding areas; animal holding pens; staging areas; and air pollution control equipment.

6.U.4.4 *Employee Training.*(See also Part 4.2.7.2.1.6) Address pest control in the training program.

6.U.5 Monitoring and Reporting Requirements. (See also Part 5)

TABLE U–1. SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

Subsector (Discharges may be subject to requirements for more than one Sector/Subsector)	Parameter	Benchmark monitoring cut-off concentration[1]	Numeric limitation
Part or Permit Affected/Supplemental Requirements			
Grain Mill Products (SIC 2041–2048)	Total Suspended Solids (TSS).	100 mg/L.	
Fats and Oils Products (SIC 2074–2079)	Biochemical Oxygen Demand (BOD_5).	30 mg/L.	
	Chemical Oxygen Demand (COD).	120 mg/L.	
	Nitrate plus Nitrate Nitrogen.	0.68 mg/L.	
	Total Suspended Solids (TSS).	100 mg/L.	

[1] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

6.V Sector V—Textile Mills, Apparel and Other Fabric Products

6.V.1 Covered Storm Water Discharges

The requirements in Part 6.V apply to storm water discharges associated with industrial activity from Textile Mills, Apparel, and Other Fabric Product Manufacturing as identified by the Activity Code specified under Sector V in Table 1–1 of Part 1.2.1.

6.V.2 Industrial Activities Covered by Sector V

The types of activities that permittees under Sector V are primarily engaged in are:

6.V.2.1 textile mill products, of and regarding facilities and establishments engaged in the preparation of fiber and subsequent manufacturing of yarn, thread, braids, twine, and cordage, the manufacturing of broadwoven fabrics, narrow woven fabrics, knit fabrics, and carpets and rugs from yarn;

6.V.2.2 processes involved in the dyeing and finishing of fibers, yarn fabrics, and knit apparel;

6.V.2.3 the integrated manufacturing of knit apparel and other finished articles of yarn;

6.V.2.4 the manufacturing of felt goods (wool), lace goods, non-woven fabrics, miscellaneous textiles, and other apparel products.

6.V.3 Limitations on Coverage

6.V.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.1) Not authorized by this permit: discharges of wastewater (*e.g.,* wastewater resulting from wet processing or from any processes relating to the production process); reused/recycled water; and waters used in cooling towers. If you have these types of discharges from your facility, you must cover them under a separate NPDES permit.

6.V.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.V.4.1 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following additional sources and activities that have potential pollutants associated with them: industrial-specific significant materials and industrial activities (*e.g.,* backwinding, beaming, bleaching, backing bonding, carbonizing, carding, cut and sew operations, desizing , drawing, dyeing locking, fulling, knitting, mercerizing, opening, packing, plying, scouring, slashing, spinning, synthetic-felt processing, textile waste processing, tufting, turning, weaving, web forming, winging, yarn spinning, and yarn texturing).

6.V.4.2 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.V.4.2.1 *Material Storage Area.* Plainly label and store all containerized materials (*e.g.,* fuels, petroleum products, solvents, dyes, etc.) in a protected area, away from drains. Describe and implement measures that prevent or minimize contamination of the storm water runoff from such storage areas, including a description of the containment area or enclosure for those materials stored outdoors. Also consider an inventory control plan to prevent excessive purchasing of potentially hazardous substances. For storing empty chemical drums/containers, ensure the drums/containers are clean (consider triple-rinsing) and there is no contact of residuals with precipitation/runoff. Collect and dispose of washwater from these cleanings properly.

6.V.4.2.2 *Material Handling Area.* Describe and implement measures that prevent or minimize contamination of storm water runoff from material handling operations and areas. Consider the following (or their equivalents): use of spill/overflow protection; covering fueling areas; and covering/enclosing areas where the transfer of material may occur. Where applicable address the replacement or repair of leaking connections, valves, transfer lines and pipes that may carry chemicals, dyes or wastewater.

6.V.4.2.3 *Fueling Areas.* Describe and implement measures that prevent or minimize contamination of storm water runoff from fueling areas. Consider the following (or their equivalents): covering the fueling area, using spill and overflow protection, minimizing runon of storm water to the fueling areas, using dry cleanup methods, and treating and/or recycling storm water runoff collected from the fueling area.

6.V.4.2.4 *Above Ground Storage Tank Area.* Describe and implement measures that prevent or minimize contamination of the storm water runoff from above ground storage tank areas, including the associated piping and valves. Consider the following (or their equivalents): regular cleanup of these areas; preparation of the spill prevention control and countermeasure program, provide spill and overflow protection; minimizing runoff of storm water from adjacent areas; restricting access to the area; insertion of filters in adjacent catch basins; providing absorbent booms in unbermed fueling areas; using dry cleanup methods; and permanently sealing drains within critical areas that may discharge to a storm drain.

6.V.4.3 *Inspections.* (See also Part 4.2.7.2.1.5) Inspect, at least on a monthly basis, the following activities and areas (at a minimum): transfer and transmission lines; spill prevention; good housekeeping practices; management of process waste products; all structural and non structural management practices.

6.V.4.4 *Employee Training.* (See also Part 4.2.7.2.1.6) As part of your employee training program, address, at a minimum, the following activities (as applicable): use of reused/recycling waters; solvents management; proper disposal of dyes; proper disposal of petroleum products and spent lubricants; spill prevention and control; fueling procedures; and general good housekeeping practices.

6.V.4.5 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9) Conduct regularly scheduled evaluations at least once a year and address those areas contributing to a storm water discharge associated with industrial activity for evidence of, or the potential for, pollutants entering the drainage system. Inspect, at a minimum, as appropriate: storage tank areas; waste disposal and storage areas; dumpsters and open containers stored outside; materials storage areas; engine maintenance and repair areas; material handing areas and loading dock areas.

6.W Sector W—Furniture and Fixtures

6.W.1 Covered Storm Water Discharges

The requirements in Part 6.W apply to storm water discharges associated with industrial activity from Furniture and Fixtures facilities as identified by the Activity Code specified under Sector W in Table 1–1 of Part 1.2.1.

6.W.2 Industrial Activities Covered by Sector W

The types of activities that permittees under Sector W are primarily engaged in the manufacturing of:

6.W.2.1 wood kitchen cabinets;

6.W.2.2 household furniture;

6.W.2.3 office furniture;

6.W.2.4 public buildings and related furniture;

6.W.2.5 partitions, shelving, lockers, and office and store fixtures;

6.W.2.6 miscellaneous furniture and fixtures.

6.W.3 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.W.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: material storage (including tanks or other vessels used for liquid or waste storage) areas; outdoor material processing areas; areas where wastes are treated, stored or disposed; access roads; and rail spurs.

6.X Sector X—Printing and Publishing

6.X.1 Covered Storm Water Discharges

The requirements in Part 6.X apply to storm water discharges associated with industrial activity from Printing and Publishing facilities as identified by the Activity Code specified under Sector X in Table 1.1 of Part 1.2.1.

6.X.2 Industrial Activities Covered by Sector X

The types of activities that permittees under Sector X are primarily engaged in are:

6.X.2.1 book printing;

6.X.2.2 commercial printing and lithographics;

6.X.2.3 plate making and related services;

6.X.2.4 commercial printing, gravure;

6.X.2.5 commercial printing not elsewhere classified.

6.X.3 Storm Water Pollution Prevention Plan Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.X.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: above ground storage tanks, drums and barrel permanently stored outside.

6.X.3.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following additional sources and activities that have potential pollutants associated with them, as applicable: loading and unloading operations; outdoor storage activities; significant dust or particulate generating processes; and onsite waste disposal practices (*e.g.*, blanket wash). Also identify the pollutant or pollutant parameter (*e.g.*, oil and grease, scrap metal, etc.) associated with each pollutant source.

6.X.3.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.X.3.3.1 *Material Storage Areas.* Plainly label and store all containerized materials (*e.g.*, skids, pallets, solvents, bulk inks, and hazardous waste, empty drums, portable/mobile containers of plant debris, wood crates, steel racks, fuel oil, etc.) in a protected area, away from drains. Describe and implement measures that prevent or minimize contamination of the storm water runoff from such storage areas, including a description of the containment area or enclosure for those materials stored outdoors. Also consider an inventory control plan to prevent excessive purchasing of potentially hazardous substances.

6.X.3.3.2 *Material Handling Area.* Describe and implement measures that prevent or minimize contamination of storm water runoff from material handling operations and areas (*e.g.*, blanket wash, mixing solvents, loading/unloading materials). Consider the following (or their equivalents): use of spill/overflow protection; covering fueling areas; and covering/enclosing areas where the transfer of materials may occur. Where applicable address the replacement or repair of leaking connections, valves, transfer lines and pipes that may carry chemicals or wastewater.

6.X.3.3.3 *Fueling Areas.* Describe and implement measures that prevent or minimize contamination of storm water runoff from fueling areas. Consider the following (or their equivalents): covering the fueling area, using spill and overflow protection, minimizing runoff of storm water to the fueling areas, using dry cleanup methods, and treating and/or recycling storm water runoff collected from the fueling area.

6.X.3.3.4 *Above Ground Storage Tank Area.* Describe and implement measures that prevent or minimize contamination of the storm water runoff from above ground storage tank areas, including the associated piping and valves. Consider the following (or their equivalents): regular cleanup of these areas; preparation of the spill prevention control and countermeasure program, provide spill and overflow protection; minimizing runoff of storm water from adjacent areas; restricting access to the area; insertion of filters in adjacent catch basins; providing absorbent booms in unbermed fueling areas; using dry cleanup methods; and permanently sealing drains within critical areas that may discharge to a storm drain.

6.X.3.4 *Employee Training.* (See also Part 4.2.7.2.1.6) As part of your employee training program, address, at a minimum, the following activities (as applicable): spent solvent management; spill prevention and control; used oil management; fueling procedures; and general good housekeeping practices.

6.Y Sector Y—Rubber, Miscellaneous Plastic Products and Miscellaneous Manufacturing Industries

6.Y.1 Covered Storm Water Discharges

The requirements in Part 6.Y apply to storm water discharges associated with industrial activity from Rubber, Miscellaneous Plastic Products and Miscellaneous Manufacturing Industries facilities as identified by the Activity

Code specified under Sector Y in Table 1–1 of Part 1.2.1.

6.Y.2 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.Y.2.1 *Potential Pollutant Sources.* (See also Part 4.2.4) Review the use of zinc at your facility and the possible pathways through which zinc may be discharged in storm water runoff.

6.Y.2.2 *Controls for Rubber Manufacturers.* (See also Part 4.2.7) Describe and implement specific controls to minimize the discharge of zinc in your storm water discharges. Parts 6.Y.2.2.1 to 6.Y.2.2.5 give possible sources of zinc to be reviewed and list some specific BMPs to be considered for implementation (or their equivalents). Some general BMP options to consider: using chemicals which are purchased in pre-weighed, sealed polyethylene bags; storing materials which are in use in sealable containers; ensuring an airspace between the container and the cover to minimize ''puffing'' losses when the container is opened; and using automatic dispensing and weighing equipment.

6.Y.2.2.1 Inadequate Housekeeping. Review the handling and storage of zinc bags at your facility. BMP options: employee training on the handling/storage of zinc bags; indoor storage of zinc bags; cleanup zinc spills without washing the zinc into the storm drain, and the use of 2,500-pound sacks of zinc rather than 50- to 100-pound sacks;

6.Y.2.2.2 Dumpsters. Reduce discharges of zinc from dumpsters. BMP options: covering the dumpster; moving the dumpster indoors; or provide a lining for the dumpster.

6.Y.2.2.3 Malfunctioning Dust Collectors or Baghouses: Review dust collectors/baghouses as possible sources in zinc in storm water runoff. Replace or repair, as appropriate, improperly operating dust collectors/baghouses.

6.Y.2.2.4 *Grinding Operations.*

Review dust generation from rubber grinding operations and, as appropriate, install a dust collection system.

6.Y.2.2.5 Zinc Stearate Coating Operations. Detail appropriate measures to prevent or clean up drips/spills of zinc stearate slurry that may be released to the storm drain. BMP option: using alternate compounds to zinc stearate.

6.Y.2.3 *Controls for Plastic Products Manufacturers.* Describe and implement specific controls to minimize the discharge of plastic resin pellets in your storm water discharges. BMPs to be considered for implementation (or their equivalents): minimizing spills; cleaning up of spills promptly and thoroughly; sweeping thoroughly; pellet capturing; employee education and disposal precautions.

6.Y.3 Monitoring and Reporting Requirements. (See also Part 5)

TABLE Y–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

Subsector	Parameter	Benchmark monitoring cut-off concentration	Numeric limitations
Part of Permit Affected/Supplemental Requirements			
Tires and Inner Tubes; Rubber Footwear; Gaskets, Packing and Sealing Devices; Rubber Hose and Belting; and Fabricated Rubber Products, Not Elsewhere Classified (SIC 3011–3069, rubber.	Total Recoverable Zinc	0.117 mg/L	

[1] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

6.Z Sector Z—Leather Tanning and Finishing

6.Z.1 Covered Storm Water Discharges

The requirements in Part 6.Z apply to storm water discharges associated with industrial activity from Leather Tanning and Finishing facilities as identified by the Activity Code specified under Sector Z in Table 1–1 of Part 1.2.1.

6.Z.2 Industrial Activities Covered by Sector Z

The types of activities that permittees under Sector Z are primarily engaged are leather tanning, curry and finishing;

6.Z.3 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.Z.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: processing and storage areas of the beamhouse, tanyard, and re-tan wet finishing and dry finishing operations; and haul roads, access roads and rail spurs.

6.Z.3.2 *Potential Pollutant Sources.* (See also Part 4.2.4) At a minimum, describe the following additional sources and activities that have potential pollutants associated with them (as appropriate): temporary or permanent storage of fresh and brine cured hides; extraneous hide substances and hair; leather dust, scraps, trimmings and shavings; chemical drums, bags, containers and above ground tanks; empty chemical containers and bags; spent solvents; floor sweepings/washings; refuse, waste piles and sludge; and significant dust/particulate generating processes (*e.g.,* buffing).

6.Z.3.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.Z.3.3.1 *Storage Areas for Raw, Semiprocessed or Finished Tannery Byproducts.* Pallets/bales of raw, semiprocessed or finished tannery byproducts (*e.g.,* splits, trimmings, shavings, etc.) should be stored indoors or protected by polyethylene wrapping, tarpaulins, roofed storage, etc. Consider placing materials on an impermeable surface, and enclosing or putting berms (or equivalent measures) around the area to prevent storm water runon/runoff.

6.Z.3.3.2 *Material Storage Areas.* Label storage containers of all materials (*e.g.,* specific chemicals, hazardous materials, spent solvents, waste materials). Describe and implement measures that prevent/minimize contact with storm water.

6.Z.3.3.3 *Buffing and Shaving Areas.* Describe and implement measures that prevent or minimize contamination of storm water runoff with leather dust from buffing/shaving areas. Consider dust collection enclosures, preventive inspection/maintenance programs or other appropriate preventive measures.

6.Z.3.3.4 *Receiving, Unloading, and Storage Areas.* Describe and implement measures that prevent or minimize contamination of storm water runoff from receiving, unloading, and storage areas. If these areas are exposed, consider (or their equivalent): Covering all hides and chemical supplies; diverting drainage to the process sewer;

or grade berming/curbing area to prevent runoff of storm water.

6.Z.3.3.5 *Outdoor Storage of Contaminated Equipment.* Describe and implement measures that prevent or minimize contact of storm water with contaminated equipment. Consider (or their equivalent): Covering equipment; diverting drainage to the process sewer; and cleaning thoroughly prior to storage.

6.Z.3.3.6 *Waste Management.* Describe and implement measures that prevent or minimize contamination of storm water runoff from waste storage areas. Consider (or their equivalent): Inspection/maintenance programs for leaking containers or spills; covering dumpsters; moving waste management activities indoors; covering waste piles with temporary covering material such as tarpaulins or polyethylene; and minimizing storm water runoff by enclosing the area or building berms around the area.

6.AA Sector AA—Fabricated Metal Products

6.AA.1 Covered Storm Water Discharges

The requirements in Part 6.AA apply to storm water discharges associated with industrial activity from Fabricated Metal Products facilities as identified by the Activity Code specified under Sector AA in Table 1–1 of Part 1.2.1.

6.AA.2 Industrial Activities Covered by Sector AA

The types of activities that permittees under Sector AA are primarily engaged in are:

6.AA.2.1 Fabricated metal products; except for electrical related industries;

6.AA.2.2 Fabricated metal products; except machinery and transportation equipment;

6.AA.2.3 Jewelry, silverware, and plated ware.

6.AA.3 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.AA.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: Raw metal storage areas; finished metal storage areas; scrap disposal collection sites; equipment storage areas; retention and detention basins; temporary/permanent diversion dikes or berms; right-of-way or perimeter diversion devices; sediment traps/barriers; processing areas including outside painting areas; wood preparation; recycling; and raw material storage.

6.AA.3.2 *Spills and Leaks.* (See also Part 4.2.5) When listing significant spills/leaks, pay attention to the following materials at a minimum: Chromium, toluene, pickle liquor, sulfuric acid, zinc and other water priority chemicals and hazardous chemicals and wastes.

6.AA.3.3 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following additional sources and activities that have potential pollutants associated with them: Loading and unloading operations for paints, chemicals and raw materials; outdoor storage activities for raw materials, paints, empty containers, corn cob, chemicals, and scrap metals; outdoor manufacturing or processing activities such as grinding, cutting, degreasing, buffing, brazing, etc; onsite waste disposal practices for spent solvents, sludge, pickling baths, shavings, ingots pieces, refuse and waste piles.

6.AA.3.4 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.AA.3.4.1 *Raw Steel Handling Storage.* Describe and implement measures controlling or recovering scrap metals, fines and iron dust. Include measures for containing materials within storage handling areas.

6.AA.3.4.2 *Paints and Painting Equipment.* Describe and implement measures to prevent or minimize exposure of paint and painting equipment to storm water.

6.AA.3.5 *Spill Prevention and Response Procedures.* (See also Part 4.2.7.2.1.4) Ensure the necessary equipment to implement a clean up is available to personnel. The following areas should be addressed:

6.AA.3.5.1 *Metal Fabricating Areas.* Describe and implement measures for maintaining clean, dry, orderly conditions in these areas. Consider the use of dry clean-up techniques.

6.AA.3.5.2 *Storage Areas for Raw Metal.* Describe and implement measures to keep these areas free of condition that could cause spills or leakage of materials. Consider the following (or their equivalents): maintaining storage areas such that there is easy access in the event of a spill; and labeling stored materials to aid in identifying spill contents.

6.AA.3.5.3 *Receiving, Unloading, and Storage Areas.* Describe and implement measures to prevent spills and leaks; plan for quick remedial clean up; and instruct employees on clean-up techniques and procedures.

6.AA.3.5.4 *Storage of Equipment.* Describe and implement measures for preparing equipment for storage and the proper storage of equipment. Consider the following (or their equivalents): protecting with covers; storing indoors; and cleaning potential pollutants from equipment to be stored outdoors.

6.AA.3.5.5 *Metal Working Fluid Storage Areas.* Describe and implement measures for storage of metal working fluids.

6.AA.3.5.6 *Cleaners and Rinse Water.* Describe and implement measures: to control/cleanup spills of solvents and other liquid cleaners; control sand buildup and disbursement from sand-blasting operations; and prevent exposure of recyclable wastes. Substitute environmentally-benign cleaners when possible.

6.AA.3.5.7 *Lubricating Oil and Hydraulic Fluid Operations.* Consider using monitoring equipment or other devices to detect and control leaks/overflows. Consider installing perimeter controls such as dikes, curbs, grass filter strips or other equivalent measures.

6.AA.3.5.8 *Chemical Storage Areas.* Describe and implement proper storage methods that prevent storm water contamination and accidental spillage. Include a program to inspect containers and identify proper disposal methods.

6.AA.3.6 *Inspections.* (See also Part 4.2.7.2.1.5) Include, at a minimum, the following areas in all inspections: raw metal storage areas; finished product storage areas; material and chemical storage areas; recycling areas; loading and unloading areas; equipment storage areas; paint areas; vehicle fueling and maintenance areas.

6.AA.3.7 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9.2) As part of your evaluation, also inspect: areas associated with the storage of raw metals; storage of spent solvents and chemicals; outdoor paint areas; and drainage from roof. Potential pollutants include chromium, zinc, lubricating oil, solvents, aluminum, oil and grease, methyl ethyl ketone, steel and other related materials.

6.AA.4 Monitoring and Reporting Requirements

(See also Part 5)

TABLE AA–1.—SECTOR-SPECIFIC NUMERIC LIMITATIONS AND BENCHMARK MONITORING

Subsector (Discharges may be subject to requirements for more than one sector/subsector)	Parameter	Benchmark, monitoring, cutoff, concentration[1]	Numeric limitation
Part of Permit Affected/Supplemental Requirements			
Fabricated Metal Products Except Coating (SIC 3411–3471, 3482–3499, 3911–3915).	Total Recoverable Aluminum.	0.75 mg/L.	
	Total Recoverable Iron	1.0 mg/L.	
	Total Recoverable Zinc	0.117 mg/L.	
	Nitrate plus Nitrite Nitrogen	0.68 mg/L.	
Fabricated Metal Coating and Engraving (SIC 3479)	Total Recoverable Zinc	0.117 mg/L.	
	Nitrate plus Nitrite Nitrogen	0.68 mg/L.	

[1] Monitor once/quarter for the year 2 and year 4 Monitoring Years

6.AB Sector AB—Transportation Equipment, Industrial or Commercial Machinery

6.AB.1 Covered Storm Water Discharges

The requirements in Part 6.AB apply to storm water discharges associated with industrial activity from Transportation Equipment, Industrial or Commercial Machinery facilities as identified by the Activity Code specified under Sector AB in Table 1–1 of Part 1.2.1.

6.AB.2 Industrial Activities Covered by Sector AB

The types of activities that permittees under Sector AB are primarily engaged in are:

6.AB.2.1 Industrial and Commercial Machinery (except Computer and Office Equipment) (see Sector AC); and

6.AB.2.2 Transportation Equipment (except Ship and Boat Building and Repairing) (see Sector R).

6.AB.3 Storm Water Pollution Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.AB.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: vents and stacks from metal processing and similar operations.

6.AB.3.2 *Non-Storm Water Discharges.* (See also Part 4.4) If your facility has a separate NPDES permit (or has applied for a permit) authorizing discharges of wastewater, attach a copy of the permit (or the application) to your SWPPP. Any new wastewater permits issued/reissued to you must then replace the old one in your SWPPP. If you discharge wastewater, other than solely domestic wastewater, to a Publicly Owned Treatment Works (POTW), you must notify the POTW of the discharge (identify the types of wastewater discharged, including any storm water). As proof of this notification, attach to your SWPPP a copy of the permit issued to your facility by the POTW or a copy of your notification to the POTW.

6.AC Sector AC—Electronic, Electrical Equipment and Components, Photographic and Optical Goods

6.AC.1 Covered Storm Water Discharges

The requirements in Part 6.AC apply to storm water discharges associated with industrial activity from facilities that manufacture Electronic, Electrical Equipment and Components, Photographic and Optical Goods as identified by the SIC Codes specified in Table 1–1 of Part 1.2.1.

6.AC.2 Industrial Activities Covered by Sector AC

The types of manufacturing activities that permittees under Sector AC are primarily engaged in are:

6.AC.2.1 Measuring, analyzing, and controlling instruments;

6.AC.2.2 Photographic, medical and optical goods;

6.AC.2.3 Watches and clocks; and

6.AC.2.4 Computer and office equipment.

6.AC.3 Additional Requirements

No additional sector-specific requirements apply to this sector.

6.AD Storm Water Discharges Designated by the Director as Requiring Permits

6.AD.1 Covered Storm Water Discharges

Sector AD is used to provide permit coverage for facilities designated by the Director as needing a storm water permit, or any discharges of industrial activity that do not meet the description of an industrial activity covered by Sectors A–AC. Therefore, almost any type of storm water discharge could be covered under this sector. You must be assigned to Sector AD by the Director and may NOT choose sector AD as the sector describing your activities on your own.

6.AD.1.1 *Eligibility for Permit Coverage.* Because this Sector only covers discharges designated by the Director as needing a storm water permit (which is an atypical circumstance) or your facility's industrial activities were inadvertently left out of Sectors A–AC, and your facility may or may not normally be discharging storm water associated with industrial activity, you must obtain the Director's written permission to use this permit prior to submitting a Notice of Intent. If you are authorized to use this permit, you will be required to ensure your discharges meet the basic eligibility provisions of this permit at Part 1.2.

6.AD.2 Storm Water Pollution Prevention Plan (SWPPP) Requirements

The Director will establish any additional Storm Water Pollution Prevention Plan requirements for your facility at the time of accepting your Notice of Intent to be covered by this permit. Additional requirements would be based on the nature of activities at your facility and your storm water discharges.

6.AD.3 Monitoring and Reporting Requirements

The Director will establish any additional monitoring and reporting requirements for your facility at the time of accepting your Notice of Intent to be covered by this permit. Additional requirements would be based on the nature of activities at your facility and your storm water discharges.

7. Reporting

7.1 Reporting Results of Monitoring

Depending on the types of monitoring required for your facility, you may have to submit the results of your monitoring or you may only have to keep the results

with your Storm Water Pollution Prevention Plan. You must follow the reporting requirements and deadlines in Table 7–1 that apply to the types of monitoring that apply to your facility.

If required by the conditions of the permit that apply to your facility, you must submit analytical monitoring results obtained from each outfall associated with industrial activity (or a certification as per 5.3.1) on a Discharge Monitoring Report (DMR) form (one form must be submitted for each storm event sampled). An example of a form is found in the Guidance Manual for the Monitoring and Reporting Requirements of the NPDES Storm Water Multi-Sector General Permit. A copy of the DMR is also available on the Internet at *http://www.epa.gov/owm/sw/permits-and-forms/index.htm.* The signed DMR must be sent to: MSGP DMR (4203), US EPA, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

Note: If EPA notifies dischargers (either directly, by public notice or by making information available on the Internet) of other DMR form options that become available at a later date (*e.g.*, electronic submission of forms), you may take advantage of those options to satisfy the DMR use and submission requirements of Part 7.

TABLE 7–1.—DMR/ALTERNATIVE CERTIFICATION SUBMISSION DEADLINES

Type of monitoring	Reporting deadline (postmark)
Monitoring for Numeric Limitation	Submit results by the 28th day of the month following the monitoring period.
Benchmark Monitoring:	
Monitoring Year 2001–2002	Save and submit all results for year in one package by January 28, 2003.
Monitoring Year 2003–2004	Save and submit all results for year in one package by January 28, 2005.
Biannual Monitoring for Metal Mining Facilities (see Part 6.G).	Save and submit all results for year in one package by January 28 of the year following the monitoring year.
Visual Monitoring	Retain results with SWPPP—do not submit unless requested to do so by Permitting Authority.
State/Tribal/Territory—Specific Monitoring	See Part 13 (conditions for specific States, Indian country, and Territories).

7.2 Additional Reporting for Dischargers to a Large or Medium Municipal Separate Storm Sewer System

If you discharge storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more), you must also submit signed copies of your discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in Table 7–1.

7.3 Miscellaneous Reports

You must submit any other reports required by this permit to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part 8.3.

8. Retention of Records

8.1 Documents

In addition to the requirements of Part 9.16.2, you must retain copies of Storm Water Pollution Prevention Plans and all reports and certifications required by this permit, and records of all data used to complete the Notice of Intent to be covered by this permit, for a period of at least three years from the date that the facility's coverage under this permit expires or is terminated. This period may be extended by request of the Director at any time.

8.2 Accessibility

You must retain a copy of the Storm Water Pollution Prevention Plan required by this permit (including a copy of the permit language) at the facility (or other local location accessible to the Director, a State, Tribal or Territorial agency with jurisdiction over water quality protection; local government officials; or the operator of a municipal separate storm sewer receiving discharges from the site) from the date of permit coverage to the date of permit coverage ceases. You must make a copy of your Storm Water Pollution Prevention Plan available to the public if requested to do so in writing.

8.3 Addresses

Except for the submittal of NOIs and NOTs (see Parts 2.1 and 11.2, respectively), all written correspondence concerning discharges in any State, Indian country land, Territory, or from any Federal facility covered under this permit and directed to the EPA, including the submittal of individual permit applications, must be sent to the address of the appropriate EPA Regional Office listed below:

8.3.1 Region 1: CT, MA, ME, NH, RI, VT

EPA Region 1, Office of Ecosystem Protection, One Congress Street—CMU, Boston, MA 02114.

8.3.2 Region 2: NJ, NY, PR, VI

United States EPA, Region 2, Caribbean Environmental Protection Division, Environmental Management Branch, Centro Europa Building, 1492 Ponce de Leon Ave., Suite 417, San Juan, PR 00907–4127.

8.3.3 Region 3: DE, DC, MD, PA, VA, WV

EPA Region 3, Water Protection Division (3WP13), Storm Water Coordinator, 1650 Arch Street, Philadelphia, PA 19103.

8.3.4 Region 4: AL, FL, GA, KY, MS, NC, SC, TN

Environmental Protection Agency, Region 4, Clean Water Act Enforcement Section, Water Programs Enforcement Branch, Water Management Division, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303.

8.3.5 Region 5: IL, IN, MI, MN, OH, WI

(Coverage Not Available Under This Permit.)

8.3.6 Region 6: AR, LA, OK, TX, NM

(Except see Region 9 for Navajo lands, and see Region 8 for Ute Mountain Reservation lands)

United States EPA, Region 6, Storm Water Staff, Enforcement and Compliance Assurance Division (GEN–WC), EPA SW MSGP, P.O. Box 50625, Dallas, TX 75205.

8.3.7 Region 7:

(Coverage Not Available Under This Permit.)

8.3.8 Region 8: CO, MT, ND, SD, WY, UT

(Except see Region 9 for Goshute Reservation and Navajo Reservation lands), the Ute Mountain Reservation in NM, and the Pine Ridge Reservation in NE

United States EPA, Region 8, Ecosystems Protection Program (8EPR–

EP), Storm Water Staff, 999 18th Street, Suite 300, Denver, CO 80202–2466.

8.3.9 Region 9: AZ, CA, HI, NV, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Goshute Reservation in UT and NV, the Navajo Reservation in UT, NM, and AZ, the Duck Valley Reservation in ID, Fort McDermitt Reservation in OR

United States EPA, Region 9, Water Management Division, WTR–5, Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105.

8.3.10 Region 10: ID, WA, OR

(Except see Region 9 for Fort McDermitt Reservation.)

United States EPA, Region 10, Office of Water OW–130, 1200 6th Avenue, Seattle, WA 98101.

8.4 State, Tribal, and Other Agencies

See Part 13 for addresses of States or Tribes that require submission of information to their agencies.

9. Standard Permit Conditions

9.1 Duty To Comply

9.1.1 You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

9.1.2 *Penalties for Violations of Permit Conditions:* The Director will adjust the civil and administrative penalties listed below in accordance with the Civil Monetary Penalty Inflation Adjustment Rule (**Federal Register:** December 31, 1996, Volume 61, Number 252, pages 69359–69366, as corrected, March 20, 1997, Volume 62, Number 54, pages 13514–13517) as mandated by the Debt Collection Improvement Act of 1996 for inflation on a periodic basis. This rule allows EPA's penalties to keep pace with inflation. The Agency is required to review its penalties at least once every four years thereafter and to adjust them as necessary for inflation according to a specified formula. The civil and administrative penalties listed below were adjusted for inflation starting in 1996.

9.1.2.1 *Criminal Penalties.*

9.1.2.1.1 *Negligent Violations.* The CWA provides that any person who negligently violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

9.1.2.1.2 *Knowing Violations.* The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

9.1.2.1.3 *Knowing Endangerment.* The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

9.1.2.1.4 *False Statement.* The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See section 309(c)(4) of the Clean Water Act.)

9.1.2.2 *Civil Penalties.* The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $27,500 per day for each violation.

9.1.2.3 *Administrative Penalties.* The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

9.1.2.3.1 *Class I Penalty.* Not to exceed $11,000 per violation nor shall the maximum amount exceed $27,500.

9.1.2.3.2 *Class II Penalty.* Not to exceed $11,000 per day for each day during which the violation continues nor shall the maximum amount exceed $137,500.

9.2 Continuation of the Expired General Permit

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and remain in force and effect. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

9.2.1 Reissuance or replacement of this permit, at which time you must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or

9.2.2 Your submittal of a Notice of Termination; or

9.2.3 Issuance of an individual permit for your discharges; or

9.2.4 A formal permit decision by the Director not to reissue this general permit, at which time you must seek coverage under an alternative general permit or an individual permit.

9.3 Need To Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

9.4 Duty To Mitigate

You must take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

9.5 Duty To Provide Information

You must furnish to the Director or an authorized representative of the Director any information which is requested to determine compliance with this permit or other information.

9.6 Other Information

If you become aware that you have failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Director, you must promptly submit such facts or information.

9.7 Signatory Requirements

All Notices of Intent, Notices of Termination, Storm Water Pollution Prevention Plans, reports, certifications or information either submitted to the Director or the operator of a large or medium municipal separate storm sewer system, or that this permit requires be maintained by you, must be signed as follows:

9.7.1 All notices of intent and notices of termination must be signed as follows:

9.7.1.1 *For a corporation:* By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

9.7.1.2 *For a partnership or sole proprietorship:* By a general partner or the proprietor, respectively; or

9.7.1.3 *For a municipality, State, Federal, or other public agency:* By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (1) The chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (*e.g.,* Regional Administrators of EPA).

9.7.2 All reports required by this permit and other information must be signed as follows:

9.7.2.1 All reports required by this permit and other information requested by the Director or authorized representative of the Director must be signed by a person described in Part 9.7.1 or by a duly authorized representative of that person.

9.7.2.2 A person is a duly authorized representative only if the authorization is made in writing by a person described Part 9.7.1 and submitted to the Director.

9.7.2.3 The authorization must specify either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

9.7.3 *Changes to Authorization.* If the information on the NOI filed for permit coverage is no longer accurate because a different operator has responsibility for the overall operation of the facility, a new Notice of Intent satisfying the requirements of Part 2 must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative. The change in authorization must be submitted within the time frame specified in Part 2.1, and sent to the address specified in Part 2.4.

9.7.4 *Certification.* Any person signing documents under Part 9.7 must make the following certification:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

9.8 Penalties for Falsification of Reports

Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than two years, or by both.

9.9 Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve you from any responsibilities, liabilities, or penalties to which you are or may be subject under section 311 of the CWA or section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

9.10 Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

9.11 Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

9.12 Requiring Coverage Under an Individual Permit or an Alternative General Permit

9.12.1 Eligibility for this permit does not confer a vested right to coverage under the permit.

The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. Where the Director requires a permittee authorized to discharge under this permit to apply for an individual NPDES permit, the Director will notify you in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for you to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit will automatically terminate. Applications must be submitted to the appropriate Regional Office indicated in Part 8.3 of this permit. The Director may grant additional time to submit the application upon request of the applicant. If a permittee fails to submit in a timely manner an individual NPDES permit application as required by the Director under this paragraph, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified by the Director for application submittal.

9.12.2 Any permittee authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, you must submit an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to the Director at the address for the appropriate Regional

Office indicated in Part 8.3 of this permit. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by you are adequate to support the request.

9.12.3 When an individual NPDES permit is issued to a permittee otherwise subject to this permit, or the permittee is authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

9.12.4 The Director's notification that coverage under an alternative permit is required does not imply that any discharge that did not or does not meet the eligibility requirements of Part 1.2 is or has been covered by this permit.

9.13 State/Tribal Environmental Laws

9.13.1 Nothing in this permit will be construed to preclude the institution of any legal action or relieve you from any responsibilities, liabilities, or penalties established pursuant to any applicable State/Tribal law or regulation under authority preserved by section 510 of the Act.

9.13.2 No condition of this permit releases you from any responsibility or requirements under other environmental statutes or regulations.

9.14 Proper Operation and Maintenance

You must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by you to achieve compliance with the conditions of this permit and with the requirements of Storm Water Pollution Prevention Plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of this permit.

9.15 Inspection and Entry

You must allow the Director or an authorized representative of EPA, the State/Tribe, or, in the case of a facility which discharges through a municipal separate storm sewer, an authorized representative of the municipal owner/operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

9.15.1 Enter upon the your premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

9.15.2 Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and

9.15.3 Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).

9.16 Monitoring and Records

9.16.1 *Representative Samples/Measurements.* Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.

9.16.2 *Retention of Records.*

9.16.2.1 You must retain records of all monitoring information, and copies of all monitoring reports required by this permit for at least three (3) years from the date of sample, measurement, evaluation or inspection, or report. This period may be extended by request of the Director at any time. Permittees must submit any such records to the Director upon request.

9.16.2.2 You must retain the Storm Water Pollution Prevention Plan developed in accordance with Part 4 of this permit, including the certification required under Section 2.2.4.3 of this permit, for at least 3 years after the last modification or amendment is made to the plan.

9.16.3 *Records Contents.* Records of monitoring information must include:

9.16.3.1 The date, exact place, and time of sampling or measurements;

9.16.3.2 The initials or name(s) of the individual(s) who performed the sampling or measurements;

9.16.3.3 The date(s) analyses were performed;

9.16.3.4 The time(s) analyses were initiated;

9.16.3.5 The initials or name(s) of the individual(s) who performed the analyses;

9.16.3.6 References and written procedures, when available, for the analytical techniques or methods used; and

9.16.3.7 The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

9.16.4 *Approved Monitoring Methods.* Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

9.17 Permit Actions

This permit may be modified; revoked and reissued; or terminated for cause. Your filing of a request for a permit modification; revocation and reissuance; or your submittal of a notification of planned changes or anticipated non-compliance does not automatically stay any permit condition.

10. Reopener Clause

10.1 Water Quality Protection

If there is evidence indicating that the storm water discharges authorized by this permit cause, have the reasonable potential to cause, or contribute to a violation of a water quality standard, you may be required to obtain an individual permit or an alternative general permit in accordance with Part 3.3 of this permit, or the permit may be modified to include different limitations and/or requirements.

10.2 Procedures for Modification or Revocation

Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5.

11. Transfer or Termination of Coverage

11.1 Transfer of Permit Coverage

Automatic transfers of permit coverage under 40 CFR 122.61(b) are not allowed for this general permit.

11.1.1 Transfer of coverage from one operator to a different operator (*e.g.,* facility sold to a new company): the new owner/operator must complete and file an NOI in accordance with Part 1.3 at least 2 days prior to taking over operational control of the facility. The old owner/operator must file an NOT (Notice of Termination) within thirty (30) days after the new owner/operator has assumed responsibility for the facility.

11.1.2 Simple name changes of the permittee (*e.g.,* Company ''A'' changes name to ''ABC, Inc.'' or Company ''B'' buys out Company ''A'') may be done by filing an amended NOI referencing the facility's assigned permit number and requesting a simple name change.

11.2 Notice of Termination (NOT)

You must submit a completed Notice of Termination (NOT) that is signed in accordance with Part 9.7 when one or more of the conditions contained in Part 1.4 (Terminating Coverage) have been met. The NOT form found in Addendum E will be used unless it has been replaced by a revised version by the Director. The Notice of Termination must include the following information:

11.2.1 The NPDES permit number for the storm water discharge identified by the Notice of Termination;

11.2.2 An indication of whether the storm water discharges associated with industrial activity have been eliminated (*i.e.,* regulated discharges of storm water are being terminated); you are no longer an operator of the facility; or you have obtained coverage under an alternative permit;

11.2.3 The name, address and telephone number of the permittee submitting the Notice of Termination;

11.2.4 The name and the street address (or a description of location if no street address is available) of the facility for which the notification is submitted;

11.2.5 The latitude and longitude of the facility; and

11.2.6 The following certification, signed in accordance with Part 9.7 (signatory requirements) of this permit. For facilities with more than one permittee and/or operator, you need only make this certification for those portions of the facility where the you were authorized under this permit and not for areas where the you were not an operator:

I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that authorized by a general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this notice of termination, I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the Clean Water Act.

11.3 Addresses

All Notices of Termination must be submitted using the form provided by the Director (or a photocopy thereof) to the address specified on the NOT form.

11.4 Facilities Eligible for ''No Exposure'' Exemption for Storm Water Permitting

By filing a certification of ''No Exposure'' under 40 CFR 122.26(g), you are automatically removed from permit coverage and a NOT to terminate permit coverage is not required.

12. Definitions

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Commencement of Construction the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

Control Measure as used in this permit, refers to any Best Management Practice or other method (including effluent limitations) used to prevent or reduce the discharge of pollutants to waters of the United States.

CWA means the Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*

Director means the Regional Administrator of the Environmental Protection Agency or an authorized representative.

Discharge when used without qualification means the ''discharge of a pollutant.''

Discharge of Storm Water Associated with Construction Activity as used in this permit, refers to a discharge of pollutants in storm water runoff from areas where soil disturbing activities (*e.g.,* clearing, grading, or excavation), construction materials or equipment storage or maintenance (*e.g.,* fill piles, borrow areas, concrete truck washout, fueling), or other industrial storm water directly related to the construction process (*e.g.,* concrete or asphalt batch plants) are located. (See 40 CFR 122.26(b)(14)(x) and 40 CFR 122.26(b)(15) for the two regulatory definitions on regulated storm water associated with construction sites).

Discharge of Storm Water Associated with Industrial Activity is defined at 40 CFR 122.26(b)(14).

Facility or Activity means any NPDES ''point source'' or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

Flow-Weighted Composite Sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

Indian country, as defined in 18 USC 1151, means: (a) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. This definition includes all land held in trust for an Indian tribe.

Industrial Activity as used in this permit refers to the eleven categories of industrial activities included in the definition of ''discharges of storm water associated with industrial activity''.

Industrial Storm Water as used in this permit refers to storm water runoff associated with the definition of ''discharges of storm water associated with industrial activity''.

Large and Medium Municipal Separate Storm Sewer Systems are defined at 40 CFR 122.26(b)(4) and (7), respectively and means all municipal separate storm sewers that are either:

1. Located in an incorporated place (city) with a population of 100,000 or more as determined by the 1990 Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR 122); or
2. Located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR 122); or
3. Owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Director as part of the large or medium

municipal separate storm sewer system.

Municipal Separate Storm Sewer is defined at 40 CFR 122.26.

No exposure means that all industrial materials or activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt and/or runoff.

NOI means Notice of Intent to be covered by this permit (see Part 2 of this permit.)

NOT means Notice of Termination (see Part 11.2 of this permit).

Owner or operator means the owner or operator of any ''facility or activity'' subject to regulation under the NPDES program.

Point source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Pollutant is defined at 40 CFR 122.2. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

Runoff coefficient means the fraction of total rainfall that will appear at the conveyance as runoff.

Special Aquatic Sites, as defined at 40 CFR 230.3(q–1), means those sites identified in 40 CFR 230 Subpart E. They are geographic areas, large or small, possessing special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values. These areas are generally recognized as significantly influencing or positively contributing to the general overall environmental health or vitality of the entire ecosystem of a region. (See 40 CFR 230.10(a)(3)).

Storm Water means storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm Water Associated with Industrial Activity refers to storm water, that if allowed to discharge, would constitute a ''discharge of storm water associated with industrial activity'' as defined at 40 CFR 122.26(b)(14) and incorporated here by reference.

Waters of the United States means:

1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate ''wetlands'';
3. All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
   a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
   b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
   c. Which are used or could be used for industrial purposes by industries in interstate commerce;
4. All impoundments of waters otherwise defined as waters of the United States under this definition;
5. Tributaries of waters identified in paragraphs (1) through (4) of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs 1. through 6. of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds for steam electric generation stations per 40 CFR 423) which also meet the criteria of this definition) are not waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

You and *Your* as used in this permit is intended to refer to the permittee, the operator, or the discharger as the context indicates and that party's facility or responsibilities. The use of ''you'' and ''your'' refers to a particular facility and not to all facilities operated by a particular entity. For example, ''you must submit'' means the permittee must submit something for that particular facility. Likewise, ''all your discharges'' would refer only to discharges at that one facility.

13. Permit Conditions Applicable to Specific States, Indian Country Lands, or Territories

The provisions of Part 13 provide modifications or additions to the applicable conditions of Parts 1 through 12 of this permit to reflect specific additional conditions required as part of the State or Tribal CWA Section 401 certification process, or Coastal Zone Management Act certification process, or as otherwise established by the permitting authority. The additional revisions and requirements listed below are set forth in connection with, and only apply to, the following States, Indian country lands and Federal facilities.

13.1 Region 1

13.1.1 *CTR05*##I:* Indian country lands within the State of Connecticut.

13.1.2 *MAR05*###:* Commonwealth of Massachusetts, except Indian country lands.

13.1.2.1 Discharges covered by the general permit must comply with the provisions of 314 CMR 3.00; 314 CMR 4.00; 314 CMR 9.00; and 310 CMR 10.00 and any other related policies adopted under the authority of the Massachusetts Clean Waters Act, M.G.L. c.21, ss. 26–53 and Wetlands Protection Act, M.G.L., s.40. Specifically, new facilities or the redevelopment of existing facilities subject to this permit must comply with applicable storm water performance standards prescribed by state regulation or policy. A permit under 314 CMR 3.04 is not required for existing facilities which meet state storm water performance standards. An application for a permit under 314 CMR 3.00 is required only when required under 314 CMR 3.04(2)(b) (designation of a discharge on a case-by-case basis) or is otherwise identified in 314 CMR 3.00 or Department policy as a discharge requiring a permit application. Department regulations and policies may be obtained through the State House Bookstore or online at *www.magnet.state.ma.us/dep.*

13.1.2.2 The department may request a copy of the Storm Water Pollution Prevention Plan (SWPPP) or conduct an inspection of any facility covered by this permit to ensure compliance with state law requirements, including state water quality standards. The Department may enforce its certification conditions.

13.1.2.3 The results of any quarterly monitoring required by this permit must be sent to the appropriate Regional

Office of the Department where the monitoring identifies violations of effluent limits or benchmarks for any parameter for which monitoring is required under this permit.

13.1.3 *MAR05*##I:* Indian country lands within the Commonwealth of Massachusetts.

13.1.4 *MER05*###:* State of Maine, except Indian country lands.

13.1.5 *MER05*##I:* Indian country lands within the State of Maine.

13.1.6 *NHR05*###:* State of New Hampshire.

13.1.7 *RIR05*##I:* Indian country lands within the State of Rhode Island.

13.1.8 *VTR05*##F:* Federal Facilities in the State of Vermont.

13.2. Region 2

13.2.1 *PRR05*###:* The Commonwealth of Puerto Rico. No additional requirements

13.3 Region 3

13.3.1 *DCR05*###:* The District of Columbia.

13.3.2 *DER05*##F:* Federal Facilities in the State of Delaware.

13.4 Region 4

13.4.1 *ALR05*##I:* Indian country lands within the State of Alabama.

13.4.2 *FLR05*##I:* Indian country lands within the State of Florida.

13.4.3 *MSR05*##I:* Indian country lands within the State of Mississippi.

13.4.4 *NCR05*##I:* Indian country lands within the State of North Carolina.

13.5 Region 5

Permit coverage not available.

13.6 Region 6

13.6.1 *LAR05*##I:* Indian Country lands within the State of Louisiana. No additional requirements.

13.6.2 *NMR05*###:* The State of New Mexico, except Indian Country lands.

13.6.2.1 *Discharges to Water Quality Impaired/Water Quality Limited Waters:* Any operator who intends to obtain authorization under the MSGP for all new and existing storm water discharges to water quality-impaired (303(d)) waters (see *http://www.nmenv.state.nm.us/)* from facilities where there is a reasonable potential to contain pollutants for which the receiving water is impaired must satisfy the following conditions prior to the authorization. Signature of the NOI (which includes certifying eligibility for permit coverage) will be deemed the operator's certification that this eligibility requirement has been satisfied.

13.6.2.1.1 Prior to submitting a Notice of Intent (NOI) for coverage under the MSGP, provide an estimate of pollutant loads in storm water discharges from the facility to the New Mexico Environment Department, Surface Water Quality Bureau (SWQB). This estimate must include the documentation upon which the estimate is based (*e.g.,* sampling data from the facility, sampling data from substantially identical outfalls at similar facilities, modeling, etc.). Existing facilities must base this estimate on actual analytical data, if available.

13.6.2.1.2 Eligibility Requirements for New Discharges.

13.6.2.1.2.1 If a Total Maximum Daily Load (TMDL) has been developed, permit coverage is available only if the operator has received notice from the SWQB confirming eligibility.

Note: Following receipt of the information required under Part 13.6.2.1.1, SWQB anticipates using the following process in making eligibility determinations for new discharges into 303(d) waters where a TMDL has been developed:

- SWQB will notify the facility operator and EPA that the estimated pollutant load is consistent with the TMDL and that the proposed storm water discharges meet the eligibility requirements of Part 1.2.3.8 of the MSGP and may be authorized under this NPDES permit; or
- SWQB will notify the facility operator and EPA that the estimated pollutant load is not consistent with the TMDL and that the proposed storm water discharges do not meet the eligibility requirements of Part 1.2.3.8 of the MSGP and can not be authorized under this NPDES permit.

13.6.2.1.2.2 If a Total Maximum Daily Load (TMDL) has not been developed, permit coverage is not available under this permit for discharges to 303(d) waters and the operator must seek coverage under a separate permit.

Note: Following receipt of the information required under Part 13.6.2.1.1, SWQB anticipates using the following process in making eligibility determinations for new discharges into 303(d) waters where a TMDL has not yet been developed: SWQB will notify the facility operator and EPA that the proposed storm water discharges do not meet the eligibility requirements of Part 1.2.3.8 of the MSGP and can not be authorized under this NPDES permit.

13.6.2.1.3 *Eligibility Requirements for Existing Discharges:*

13.6.2.1.3.1 If a Total Maximum Daily Load (TMDL) has been developed, permit coverage is available only if the operator has received notice from the SWQB confirming eligibility.

Note: Following receipt of the information required under Part 13.6.2.1.1, SWQB anticipates using the following process in making eligibility determinations for existing discharges into 303(d) waters where a TMDL has been developed:

- SWQB will notify the facility operator and EPA that the estimated pollutant load is consistent with the TMDL and that the proposed storm water discharges meet the eligibility requirements of Part 1.2.3.8 of the MSGP and may be authorized under this NPDES permit; or
- SWQB will notify the facility operator and EPA that the estimated pollutant load is not consistent with the TMDL and that the proposed storm water discharges do not meet the eligibility requirements of Part 1.2.3.8 of the MSGP and can not be authorized under this NPDES permit.

13.6.2.1.3.2 If a Total Maximum Daily Load (TMDL) has not been developed at the time of permit authorization, but is later developed during the term of this permit and identifies existing permitted discharges as having a reasonable potential to contain pollutants for which the receiving water is impaired, these discharges shall no longer be authorized by this permit unless, following notification by the SWQP:

- The operator completes revisions to his/her Storm Water Pollution Prevention Plan (SWPPP) to include additional and/or modified Best Management Practices (BMPs) designed to comply with any applicable Waste Load Allocation (WLA) established his/her discharges within 14 calendar days following notification by SWQB; and
- The operator implements the additional and/or modified BMPs before the next anticipated discharge following revision of the SWPPP; and
- A report is submitted to SWQB which documents actions taken to comply with this condition, including estimated pollutant loads, within 30 calendar days following implementation of the additional and/or modified BMPs.

13.6.2.1.4 Additional Monitoring—perform analytical monitoring for each outfall at least annually for any pollutant(s) for which the 303(d) water is impaired where there is a reasonable potential for discharges to contain any or all of these pollutants. Submit monitoring results to SWQB within 45 calendar days following sample collection. These monitoring requirements are not eligible for any waivers listed elsewhere in the permit.

13.6.2.2 Permit Eligibility Regarding Protection of Water Quality Standards and Compliance with State Anti-degradation Requirements: Storm water discharges associated with industrial activity to 303(d) waters as well as all other ''waters of the State'' that SWQB has determined to be or may reasonably be expected to be contributing to a violation of a water quality standard

and/or that do not comply with the applicable anti-degradation provisions of the State's WQS are not authorized by this permit.

Note: Upon receipt of this determination, NMED anticipates that, within a reasonable period of time, EPA will notify the general permittee to apply for and obtain an individual NPDES permit for these discharges per 40 CFR 122.28(b)(3).

13.6.2.3 Signed Copies of discharge monitoring reports, individual permit applications, the data and reports addressed in Part 13.6.2.1, and all other reports required herein, shall be submitted to the appropriate state office address: New Mexico—Program Manager, Point Source Regulation Section, Surface Water Quality Bureau, New Mexico Environment Department, P.O. Box 26110, Santa Fe, New Mexico 87502.

13.6.3. NMR05*##I: Indian Country lands in the State of New Mexico, except Navajo Reservation lands (see Region 9) and Ute Mountain Reservation lands (see Region 8).

13.6.3.1 *Pueblo of Isleta* The following conditions apply only to discharges on the Pueblo of Isleta.

13.6.3.1.1 Copies of ''Certification of Eligibility of Coverage'' under Part 1.2.3.6.3 (Endangered Species) and Part 1.2.3.7 (Historical Properties), and their justifications, must be provided to the Tribe 10 days prior to filing the Notice of Intent (NOI).

13.6.3.1.2 A copy of the Storm Water Pollution Prevention Plan (SWPPP) must be provided to the Tribe 5 days prior to filing the NOI.

13.6.3.1.3 A copy of the NOI must be provided to the Tribe at the same time it is sent to the Environmental Protection Agency.

13.6.3.1.4 A copy of the Notice of Termination (NOT) must be provided to the Tribe at the same time it is sent to the Environmental Protection Agency.

13.6.3.1.5 Any notice of release of hazardous substances (Part 3.1.2) shall also be sent to the Tribe at the same time it is sent to the Environmental Protection Agency. Notification of a release of hazardous substances shall also be made to the Pueblo's Police Department (505–869–3030) or Governor's Office (505–869–3111) or Environment Department (505–869–5748).

13.6.3.1.6 Copies of all ''Routine Inspection Reports: (Part 4.2.7.2.1.5) and ''Comprehensive Inspection Reports'' (Part 4.9) shall be sent to the Tribe within 5 days of completion.

13.6.3.1.7 All analytical data (*e.g.*, Discharge Monitoring Reports, etc.) shall be provided to the Tribe at the same time it is provided to the EPA.

13.6.3.1.8 Exceedance of any EPA-established ''Benchmark Value'' for any pollutant will require quarterly monitoring for that pollutant until such time as analytical results from 4 consecutive quarters are below the ''Benchmark.''

13.6.3.1.9 Any permittee in Sector F shall monitor for all Clean Water Act Section 307(a) priority pollutants used in any of their processes. Monitoring shall be on a quarterly basis.

13.6.3.1.10 Any permittee in Sector M shall monitor for total oil & grease, glycols, and those solvents regulated under Safe Drinking Water Act mandates at 40 CFR 141.61(a) in addition to those parameters identified in Table M–1. Monitoring shall be on a quarterly basis.

13.6.3.1.11 Any permittee in Sector N shall monitor for PCBs in addition to those parameters identified in Table N–1. Monitoring shall be on a quarterly basis.

13.6.3.1.12 All written reports shall be sent to: Director, Environment Department, Pueblo of Isleta, Isleta, NM 87022.

13.6.3.2 *Pueblo of Nambe.* The following conditions apply only to discharges on the Pueblo of Nambe.

No additional requirements.

13.6.3.3 *Pueblo of Picuris.* The following conditions apply only to discharges on the Pueblo of Picuris.

13.6.3.4 *Pueblo of Pojoaque.* The following conditions apply only to discharges on the Pueblo of Pojoaque.

13.6.3.4.1 Notices of Intent (NOI) and notices of Termination (NOT) shall be submitted to the Pueblo of Pojoaque Environment Department at the same time they are submitted to EPA.

13.6.3.4.2 Storm Water Pollution Prevention Plans (SWPPP) shall be submitted to the Pueblo of Pojoaque Environment Department 30 days before commencement of the project.

13.6.3.4.3 If requested by the Pueblo of Pojoaque Environment Department (PPED), the permittee shall provide additional information necessary for a ''case by case'' eligibility determination to assure compliance with Pojoaque Pueblo Water Quality Standards.

Note: Upon receipt of an determination by the Pueblo of Pojoaque that discharges from a facility have the reasonable potential to be causing or contributing to a violation of Pojoaque Pueblo Water Quality Standards, EPA would notify the general permittee to either improve their Storm Water Pollution Prevention Plan to achieve compliance with Pojoaque Pueblo Water Quality Standards or apply for and obtain an individual NPDES permit for these discharges per 40 CFR 122.28(b)(3).

13.6.3.4.4 All written reports shall be sent to: Pueblo of Pojoaque Environment Department, 2 W. Gutierrez, Santa Fe, NM 87501; Phone (505) 455–2087; FAX (505) 455–2177.

13.6.3.5 *Pueblo of San Juan.* The following conditions apply only to discharges on the Pueblo of San Juan.

13.6.3.5.1 Copies of the Notice of Intent (NOI) and Notice of Termination (NOT) shall be provided to the Pueblo five (5) days prior to the time it is provided to the Environmental Protection Agency. A copy of the Storm Water Pollution Prevention Plan shall be provided to the Pueblo five (5) days prior to the time the NOI is submitted to the Environmental Protection Agency.

13.6.3.5.2 All analytical data (*e.g.*, Discharge Monitoring Reports, etc.) shall be provided to the Pueblo at the same time it is provided to the Environmental Protection Agency. Monitoring activities must be coordinated with the Director of the Environment Department to insure consistency with the Pueblo of San Juan Surface Water Quality Monitoring Program.

13.6.3.5.3 Copies of all written reports required under the permit shall be sent to: Director, Environment Department, San Juan Pueblo, P.O. Box 717, San Juan Pueblo, NM 87566. For questions or coordination, you may contact the Director at (505) 852–4212.

13.6.3.6 *Pueblo of Sandia.* The following conditions apply only to discharges on the Pueblo of Sandia.

13.6.3.6.1 Copies of the Notice of Intent (NOI) and Notice of Termination (NOT) shall be provided to the Pueblo at the same time it is provided to the Environmental Protection Agency. A copy of the Storm Water Pollution Prevention Plan must also be provided to the Pueblo at the time the NOI is submitted.

13.6.3.6.2 All analytical data (e.g., Discharge Monitoring Reports, etc) shall be provided to the Pueblo at the same time it is provided to the Environmental Protection Agency.

13.6.3.6.3 All written reports shall be sent to: Director, Environment Department, Pueblo of Sandia, Box 6008, Bernalillo, NM 87004.

13.6.3.7 *Pueblo of Tesuque.* The following conditions apply only to discharges on the Pueblo of Tesuque. No additional requirements.

13.6.3.8 Santa Clara Pueblo. The following conditions apply only to discharges on the Santa Clara Pueblo. No additional requirements.

13.6.3.9 *All Other Indian Country lands in New Mexico.* No additional requirements.

13.6.4. OKR05*##I: Indian Country lands within the State of Oklahoma. No additional requirements.

13.6.5. OKR05*##F: Facilities in the State of Oklahoma not under the jurisdiction of the Oklahoma Department of Environmental Quality, except those on Indian Country lands.

13.6.5.1 Ineligible Discharges to the Oklahoma Scenic Rivers System and Outstanding Resource Waters—New or proposed discharges to the Oklahoma Scenic Rivers System, including the Illinois River, Flint Creek, Barren Fork Creek, Mountain Fork, Little Lee Creek, and Big Lee Creek or to any water designated an ''Outstanding Resource Water'' (ORW) in Oklahoma's Water Quality Standards are not eligible for coverage under the MSGP. Existing discharges of storm water in these watersheds may be permitted under the MSGP only from point sources existing as of June 25, 1992, whether or not such storm water discharges were permitted as point sources prior to June 25, 1992.

13.6.6. TXR05*###: The State of Texas, except Indian Country lands.

13.6.6.1 The following limitations, independently required under the Texas Water Quality Standards (31 TAC 319.22 and 319.23), apply to discharges authorized by the permit:

13.6.6.1.1 *All Discharges to Inland Waters:* The maximum allowable concentrations of each of the hazardous metals, stated in terms of milligrams per liter (mg/l), for discharges to inland waters are as follows:

Total metal	Monthly average	Daily composite	Single grab
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

13.6.6.1.2*All Discharges to Tidal Waters:* The maximum allowable concentrations of each of the hazardous metals, stated in terms of milligrams per liter (mg/l), for discharges to tidal waters are as follows:

Total metal	Monthly average	Daily composite	Single grab
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.1	0.2	0.3
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.10	0.2	0.3
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

13.6.6.1.3 Definitions:

Inland Waters—all surface waters in the State other than ''tidal waters'' as defined below.

Tidal Waters—those waters of the Gulf of Mexico within the jurisdiction of the State of Texas, bays and estuaries thereto, and those portions of the river systems which are subject to the ebb and flow of the tides, and to the intrusion of marine waters.

13.6.7. TXR05*##I: Indian Country lands within the State of Texas. No additional requirements.

13.7. *Region 7. Permit Coverage Not Available.*

13.8. *Region 8.*

13.8.1. COR05*##F: Federal Facilities in the State of Colorado, except those located on Indian country lands.

13.8.2. COR05*##I: Indian country lands within the State of Colorado, including the portion of the Ute Mountain Reservation located in New Mexico.

13.8.3. MTR05*##I: Reserved

13.8.4. NDR05*##I: Indian country lands within the State of North Dakota, including that portion of the Standing Rock Reservation located in South Dakota except for the Lake Traverse Reservation which is covered under South Dakota permit SDR05*##I listed below.

13.8.5. SDR05*##I: Indian country lands within the State of South Dakota, including the portion of the Pine Ridge Reservation located in Nebraska and the portion of the Lake Traverse Reservation located in North Dakota except for the Standing Rock Reservation which is covered under North Dakota permit NDR05*##I listed above.

13.8.6. UTR05*##I: Indian country lands in the State of Utah, except Goshute and Navajo reservation lands (see Region 9).

13.8.7. WYR05*##I: Indian country lands in the State of Wyoming.

13.9. *Region 9.*

13.9.1. ASR05*###: The Island of American Samoa.

13.9.1.1. Copies of NOIs shall also be submitted to the American Samoa Environmental Protection Agency at the following address concurrently with NOI submittal to EPA: American Samoa Environmental Protection Agency, Executive Office Building, Pago Pago, American Samoa 96799.

13.9.1.2. Updated storm water pollution prevention plans must be

submitted to the American Samoa Environmental Protection Agency at the following address for review and approval as soon as they are completed: American Samoa Environmental Protection Agency, Executive Office Building, Pago Pago, American Samoa 96799.

13.9.2. AZR05*###: The State of Arizona, except Indian country lands.

13.9.2.1. Discharges authorized by this permit shall not cause or contribute to a violation of any applicable water quality standard of the State of Arizona (Arizona Administrative Code, Title 18, Chapter 11).

13.9.2.2. Notices of Intent (NOIs) shall also be submitted to the State of Arizona Department of Environmental Quality at the following address: Storm Water Coordinator, Arizona Department of Environmental Quality, 3033 N. Central Avenue, Phoenix, Arizona 85012. NOIs submitted to the State of Arizona shall include the well registration number if storm water associated with industrial activity is discharged to a dry well or an injection well.

13.9.2.3. Notices of Termination (NOTs) shall also be submitted to the State of Arizona Department of Environmental Quality at the following address: Storm Water Coordinator, Arizona Department of Environmental Quality, 3033 N. Central Avenue, Phoenix, Arizona 85012.

13.9.2.4. For facilities which submit a no exposure certification in accordance with Part 1.5 of the permit, the operator shall submit a copy of the no exposure certification to the State of Arizona Department of Environmental Quality at the following address: Storm Water Coordinator, Arizona Department of Environmental Quality, 3033 N. Central Avenue, Phoenix, Arizona 85012.

13.9.2.5. SARA Section 313 (Community Right to Know) facilities shall have the following requirement: Liquid storage areas for Section 313 water priority chemicals shall be operated to minimize discharges of such chemicals. Appropriate measures to minimize discharges of Section 313 chemicals shall include: provision of secondary containment for at least the entire contents of the largest tank plus sufficient freeboard to allow for the 25-year, 24-hour precipitation event; a strong spill contingency and integrity testing plan, and/or other equivalent measures.

13.9.2.6. Delineation of Facility Areas Within the 100-Year Floodplain. All facilities or any portion of a facility that is located at or within the 100-year floodplain shall be delineated on the site map. The base flood elevation, if known, shall also be reported.

13.9.2.7. Facilities subject to monitoring and reporting requirements shall also submit Discharge Monitoring Report Form(s) (DMR) and other required monitoring information to the State of Arizona Department of Environmental Quality at the following address: Storm Water DMR Coordinator, Arizona Department of Environmental Quality, 3033 N. Central Avenue Phoenix, Arizona 85012.

13.9.2.8. The term ''Significant Sources of Non-Storm Water'' includes, but is not limited to discharges which could cause or contribute to violations of water quality standards of the State of Arizona, and discharges which could include releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or Section 102 of CERCLA (see CFR 302.4).

13.9.2.9. The term ''Base Flood Elevation'' as defined by Federal Emergency Management Agency (FEMA) is the height of the base (100-year) flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 of North American Vertical Datum of 1988. This is the elevation of the 100-year flood waters relative to ''mean sea level.''

13.9.2.10. The term ''100-year flood'' means the flood having a one percent chance of being equaled or exceeded in magnitude in any given year.

13.9.2.11. The term ''100-year floodplain'' means that area adjoining a river, stream, or watercourse covered by water in the event of a 100-year flood.

13.9.3. AZR05*##I: Indian country lands within the State of Arizona, including Navajo Reservation lands in New Mexico and Utah.

13.9.3.1. White Mountain Apache Tribe. The following condition applies only on the White Mountain Apache Tribe: All NOIs for proposed storm water discharge coverage shall be provided to the following address: Tribal Environmental Planning Office, Attn: Brenda Pusher-Begay, P.O. Box 1000, Whiteriver, AZ 85941.

13.9.4. CAR05*##I: Indian country lands within the State of California No additional requirements.

13.9.5. GUR05*###: The Island of Guam.

13.9.5.1. Facilities ineligible for Multi-Sector General Permit coverage which are required to submit an individual NPDES permit application must send a copy to the following address at the time of submittal to EPA: Guam Environmental Protection Agency, P.O. Box 22439 GMF, Barrigada, Guam 96921.

13.9.5.2. Copies of NOIs shall also be submitted to the following address concurrently with NOI submittal to EPA: Guam Environmental Protection Agency, P.O. Box 22439 GMF, Barrigada, Guam 96921.

13.9.5.3. Permittees required by the Director to submit an individual NPDES permit application or alternative general NPDES permit application must send a copy to the following address at the time of submittal to EPA: Guam Environmental Protection Agency, P.O. Box 22439 GMF, Barrigada, Guam 96921.

13.9.6. JAR05*###: Johnston Atoll. No additional requirements.

13.9.7. MWR05*###: Midway Island and Wake Island. No additional requirements.

13.9.8. NIR05*###: Commonwealth of the Northern Mariana Islands (CNMI)

13.9.8.1. All conditions and requirements set forth in the USEPA final NPDES MSGP must be complied with.

13.9.8.2. A storm water pollution prevention plan (SWPPP) for storm water discharges associated with industrial activity must be approved by the Director of the CNMI DEQ prior to the submission of the NOI to USEPA. The CNMI address for the submittal of the SWPPP for approval is: Commonwealth of the Northern Mariana Islands, Office of the Governor, Director, Division of Environmental Quality (DEQ), P.O. Box 501304 C.K., Saipan, MP 96950–1304.

13.9.8.3. An NOI to be covered by the storm water MSGP for discharges associated with industrial activity must be submitted to CNMI DEQ (use above address) and USEPA, Region 9, in the form prescribed by USEPA, accompanied by a SWPPP approval letter from CNMI DEQ.

13.9.8.4. The NOI must be postmarked seven (7) calendar days prior to any stormwater discharges and a copy must be submitted to the Director of CNMI DEQ (use above address) no later than seven (7) calendar days prior to any stormwater discharges.

13.9.8.5. All monitoring reports required by the MSGP must be submitted to CNMI DEQ (use above address).

13.9.8.6. In accordance with section 10.3(h) and (i) of CNMI water quality standards, CNMI DEQ reserves the right to deny coverage under the MSGP and to require submittal of an application for an individual NPDES permit based on a review of the NOI or other information made available to the Director.

13.9.9. NVR05*##I: Indian country lands within the State of Nevada, including the Duck Valley Reservation in Idaho, the Fort McDermitt Reservation in Oregon and the Goshute Reservation in Utah. No additional requirements.

13.10. *Region 10.*

13.10.1. (The terms and conditions of the 1995 Multi-Sector General Permit are effective for facilities in the State of Alaska through February 9, 2001.)

13.10.2. AKR05*##I: Indian country Lands within the State of Alaska.

13.10.3. IDR05*### The State of Idaho, except Indian country lands.

13.10.4. IDR05*##I: Indian country lands within the State of Idaho, except Duck Valley Reservation lands (see Region 9).

13.10.5. ORR05*##I: Indian country lands in the State of Oregon except Fort McDermitt Reservation lands (see Region 9).

13.10.6. WAR05*##I: Indian country lands within the State of Washington

13.10.6.1 Permittees on Chehalis Reservation lands must also meet the following conditions:

1. The permittee shall be responsible for achieving compliance with Confederated Tribes of Chehalis Reservation's Water Quality Standards, and

2. The permittee shall be responsible for submitting all Storm Water Pollution Prevention Plans to the Chehalis Tribal Department of Natural Resources at the following address for review and approval prior to the beginning of any discharge activities taking place: Confederated Tribes of Chehalis Reservation, Department of Natural Resources, 420 Howanut Road, Oakville, WA 98568.

13.10.6.2 Permittees on Puyallup Reservation lands must also meet the following conditions:

1. The permittee shall be responsible for achieving compliance with Puyallup Tribe's Water Quality Standards;

2. The permittee shall submit a copy of the Notice of Intent to be covered by the general permit to the Puyallup Tribe Environmental Department at the address listed below at the same time it is submitted to U.S. EPA;

3. The permittee shall be responsible for submitting all Storm Water Pollution Prevention Plans to the Puyallup Tribe Environmental Department at the following address for review and approval prior to the beginning of any discharge activities taking place: Puyallup Tribe Environmental Department, 2002 East 28th Street, Tacoma, WA 98404.

13.10.7. WAR05*##F: Federal Facilities in the State of Washington, except those located on Indian country lands.

13.10.7.1 Discharges authorized by this permit shall not cause or contribute to a violation of any applicable water quality standard of the State of Washington. These standards are found at Chapter 173–201A WAC (Water Quality Standards for Surface Waters), Chapter 173–204 WAC (Sediment Management Standards) and the National Toxics Rule for human health standards (57 FR 60848–60923).

13.10.7.2 Any operator of a facility in Sectors A, D, E, F, G, H, J, L, M, N, or U who intends to obtain authorization under the MSGP–2000 for all new and existing storm water discharges must conduct and report benchmark monitoring for turbidity with a cutoff concentration of 50 NTU.

Addendum A—Endangered Species Guidance

I. Assessing Permit Eligibility Regarding Endangered Species

A. Background

To meet its obligations under the Clean Water Act and the Endangered Species Act (ESA) and to promote those Acts' goals, the Environmental Protection Agency (EPA) is seeking to ensure the activities regulated by this Multi-Sector General Permit (MSGP) pose no jeopardy to endangered and threatened species and critical habitat. To ensure that those goals are met, applicants for MSGP coverage are required under Part 1.2.3.6 to assess the impacts of their storm water discharges, allowable non-storm water discharges, and discharge-related activities on Federally listed endangered and threatened species (''listed species'') and designated critical habitat (''critical habitat'') by following the process listed below. EPA strongly recommends that you follow these steps at the earliest possible stage to ensure that measures to protect listed species and critical habitat are incorporated early in your planning process.

You also have an independent ESA obligation to ensure that your activities do not result in any prohibited ''takes'' of listed species.[1] Many of the measures required in the MSGP and in these instructions to protect species may also assist you in ensuring that your activities do not result in a prohibited take of species in violation of section 9 of the ESA. If you have or plan activities in areas that harbor endangered and threatened species, you may wish to ensure that you are protected from potential takings liability under ESA section 9 by obtaining an ESA section 10 permit or, if there is a separate federal action regarding the facility, by requesting formal consultation under ESA section 7 regarding that action. If you are not sure whether to pursue a section 10 permit or a section 7 consultation for takings protection, you should confer with the appropriate Fish and Wildlife Service (FWS) and/or National Marine Fisheries Service (NMFS) (collectively the ''Services'') office.

B. How Does The Basic Eligibility Assessment Process Work?

In order to determine if you are eligible to use the permit, you need to go through a series of steps to determine:

1. Are there any listed endangered or threatened species or critical habitat in proximity to your facility or the point where your discharges reach a receiving water?

2. If there are listed species in proximity, are your discharges or discharge-related activities going to adversely affect them?

3. If adverse effects on listed species or critical habitat are likely, what can you do to eliminate or reduce these effects?

4. Have any adverse effects already been addressed under the Endangered Species Act?

5. Which, if any, of the eligibility criteria make you eligible for permit coverage?

C. What Are the Eligibility Criteria?

The Part 1.2.3.6 eligibility requirement may be satisfied by documenting that one or more of the following criteria has been met:

Criteria A. No Listed Species or Critical Habitat Are in Proximity to Your Facility or the Point Where Authorized Discharges Reach a Water of the United States (See Part 1.2.3.6.3.1)

Using the latest County Species List available from EPA and any other relevant information sources, you have determined that no listed species or critical habitat are in proximity to your facility. Listed species and critical habitat are in proximity to a facility when they are:

- Located in the path or immediate area through which or over which contaminated point source storm water flows from industrial activities to the point of discharge into the receiving water. This may also include areas where storm water from your facility enters groundwater that has a direct hydrological connection to a receiving water (*e.g.,* groundwater infiltrates at your facility and re-emerges to enter a surface waterbody within a short period of time.)
- Located in the immediate vicinity of, or nearby, the point of discharge into receiving waters.
- Located in the area of a facility where storm water BMPs are planned or are to be constructed.

Please be aware that no protection from incidental takings liability is provided under this criteria.

Criteria B. An ESA Section 7 Consultation Has Been Performed for a Separate Federal Action Regarding Your Facility (See Part 1.2.3.6.3.2)

A formal or informal ESA § 7 consultation on a separate federal action (*e.g.,* New Source review under NEPA, application for a dredge

[1] Section 9 of the ESA prohibits any person from ''taking'' a listed species (*e.g.,* harassing or harming it) unless: (1) the taking is authorized through a ''incidental take statement'' as part of undergoing ESA section 7 formal consultation; (2) where an incidental take permit is obtained under ESA section 10 (which requires the development of a habitat conservation plan); or (3) where otherwise authorized or exempted under the ESA. This prohibition applies to all entities including private individuals, businesses, and governments.

and fill permit under CWA § 404, application for an individual NPDES permit, etc.) addressed the effects of your discharges and discharge-related activities on listed species and critical habitat. If your facility was the subject of a formal consultation, it must have resulted in either a ''no jeopardy opinion'' or a ''jeopardy opinion'' and you agree to implement any reasonable and prudent alternatives or other conditions upon which the consultation was based. If your facility was the subject of an informal consultation, it must have resulted in a written concurrence by the Service(s) on a finding that the applicant's activities are not likely to adversely affect listed species or critical habitat (for informal consultation, see 50 CFR 402.13).

Criteria C. An Incidental Taking Permit Under Section 10 of the ESA was Issued for Your Facility (See Part 1.2.3.6.3.3)

You have a permit under section 10 of the ESA and that authorization addresses the effects of your wastewater and storm water discharges and discharge-related activities on listed species and critical habitat. Note: You must follow FWS/NMFS procedures when applying for an ESA section 10 permit (see 50 CFR 17.22(b)(1)).

Criteria D. You Have Determined Adverse Effects Are Not Likely (See Part 1.2.3.6.3.4)

Using best judgment, you have investigated potential effects your discharges and discharges-related activities may have on listed species and critical habitat and have no reason to believe there would be adverse effects. Any terms and/or conditions to protect listed species and critical habitat you relied on in order to determine adverse effects would be unlikely must be incorporated into your Storm Water Pollution Prevention Plan (required by the permit) and implemented in order to maintain permit eligibility.

Please be aware that no protection from incidental takings liability is provided under this criteria.

Criteria E. Your Facility Was Covered Under the Eligibility Certification of Another Operator for the Facility Area (See Part 1.2.3.6.3.5)

Your storm water discharges, allowable non-storm water discharges, and discharge-related activities were already addressed in another operator's certification of eligibility under Part 1.2.3.6.3 which covered your facility. By certifying eligibility under Part 1.2.3.6.3.4, you agree to comply with any measures or controls upon which the other operator's certification under Part 1.2.3.6.3 was based.

Please be aware that in order to meet the permit eligibility requirements by relying on another operator's certification of eligibility, the other operator's certification must apply to the location of your facility and must address the effects from your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed species and critical habitat. This situation will typically occur where an ownership of a facility covered by this permit changes or when there are multiple operators within an industrial park or an airport. However, before you rely on another operator's certification, you should carefully review that certification along with any supporting information. You also need to confirm that no additional species have been listed or critical habitat designated in the area of your facility since the other operator's endangered species assessment was done. If you do not believe that the other operator's certification provides adequate coverage for your facility, you should provide your own independent endangered species assessment and certification.

Please be aware that no protection from incidental takings liability is provided under this criteria.

D. What Procedures Do I Use To Determine if the Eligibility Criteria Can Be Satisfied?

Caution: Additional endangered and threatened species have been listed and critical habit designated since the 1995 MSGP was issued and will continue to be added after the effective date of this permit. You must verify any earlier determination of eligibility is still valid before relying on that assessment to certify eligibility for this permit. Where applicable, you may incorporate information from your previous endangered species analysis in your documentation of eligibility for this permit.

To determine eligibility, you must assess (or have previously assessed) the potential effects of your storm water discharges, allowable non-storm water discharges and discharge-related activities on listed species and critical habitat. PRIOR to completing and submitting a Notice of Intent (NOI) form, you must follow the steps outlined below and document the results of your eligibility determination.

Step One: Are There Any Endangered Species or Critical Habitat in Your County (or Other Area) and, if so, Are They in Proximity to Your Facility or Discharge Locations?

1–A. *Check for Listed Species* Look in the latest county species list to see if any listed species are found where your facility and discharge point(s) are located. If you are located close to the border of a county or your facility is located in one county and your discharge points are located in another, you must look under both counties. Since species are listed and de-listed periodically, you will need the most current list at the time you are doing your endangered species assessment. EPA's most current county-species list is on the Internet at *http://www.epa.gov/owm/esalst2.htm.*

=>Proceed to 1–B.

1–B. *Check for Critical Habitat* Some (but not all) listed species have designated critical habitat. Exact locations of such habitat is provided in the endangered species regulations at 50 CFR part 17 and part 226. To determine if facility or discharge locations are within designated critical habitat, you should either:

- Review those regulations (which can be found in many larger libraries); or
- Contact the nearest Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) Office. A list of FWS and NMFS offices is found at section II of this Addendum.; or
- Contact the State Natural Heritage centers. These centers compile and disseminate information on Federally listed and other protected species. They frequently have the most current information on listed species and critical habitat. A list of these centers is provided in section III of the Addendum.

=>Proceed to 1–C.

1–C. *Check for Proximity* If there are listed species in your county, are they in proximity to your facility or discharge locations? You will need to use the proximity criteria in Eligibility Criteria A to determine if the listed species are in your part of the county. The area in proximity to be searched/surveyed for listed species will vary with the size of the facility, the nature and quantity of the storm water discharges, and the type of receiving waters. Given the number of facilities potentially covered by the MSGP, no specific method to determine whether species are in proximity is required for permit coverage under the MSGP. Instead, you should use the method or methods which best allow you to determine to the best of your knowledge whether species are in proximity to your particular facility. These methods may include:

- Conducting visual inspections. This method may be particularly suitable for facilities that are smaller in size, facilities located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no nature habitat; and facilities that discharge directly into municipal storm water collection systems. For other facilities, a visual survey of the facility site and storm water drainage areas may be insufficient to determine whether species are likely to be located in proximity to the discharge.
- Contacting the nearest State Wildlife Agency or U.S. Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) offices. Many endangered and threatened species are found in well-defined areas or habitats. That information is frequently known to state or federal wildlife agencies. FWS has offices in every state. NMFS has regional offices in: Gloucester, Massachusetts; St. Petersburg, Florida; Long Beach, California; Portland, Oregon; and Juneau, Alaska.
- Contacting local/regional conservation groups. These groups inventory species and their locations and maintain lists of sightings and habitats.
- Conducting a formal biological survey. Larger facilities with extensive storm water discharges may choose to conduct biological surveys as the most effective way to assess whether species are located in proximity and whether there are likely adverse effects.

If neither your facility nor discharge locations are located in designated critical habitat, then you need not consider impacts to critical habitat when following Steps Two through Five below. If your facility or discharge locations are located within critical habitat, then you must look at impacts to critical habitat when following Steps Two through Five. EPA notes that many measures imposed to protect listed species under these

steps will also protect critical habitat. However, obligations to protect habitat under this permit are separate from those to protect listed species. Thus, meeting the eligibility requirements of this permit may require measures to protect critical habitat that are separate from those to protect listed species.

=> Proceed to 1–D

1–D. *Check for Criteria ''A'' Eligibility* IF NO SPECIES WERE LISTED FOR YOUR COUNTY OR THE SPECIES THAT WERE LISTED WERE NOT IN PROXIMITY TO YOUR DISCHARGE *AND* YOUR FACILITY AND DISCHARGE LOCATIONS WERE NOT IN PROXIMITY TO CRITICAL HABITAT, YOU ARE ELIGIBLE UNDER CRITERIA ''A''. Document your endangered species assessment and certify eligibility under Part 1.2.3.6.3.1 of the permit. Congratulations, go to Step Five!

=> If there were listed species or critical habitat, proceed to Step Two

Step Two: Can You Meet Eligibility Criteria ''B'', ''C'', or ''E''?

2–A *Check for Criteria ''B'', ''C'', or ''E'' Basis* Do one of the following apply:

- There was a completed consultation under ESA § 7 for your facility (Criteria B) => proceed to 2–B
- There is a previously issued ESA § 10 permit for your facility (Criteria C) => proceed to 2–C
- Another operator previously certified eligibility for the area where your facility is located (Criteria E) => proceed to 2–D

=> If no, proceed to Step Three

2–B *Check for Criteria ''B'' Eligibility* Did the previously completed ESA § 7 consultation consider all currently listed species and critical habitat and address your storm water, allowable non-storm water, and discharge related activities?

=> If no, proceed to Step Three

2-B–1 Did the ESA § 7 consultation result in either a ''no jeopardy'' opinion by the Service (for formal consultations) or a concurrence by the service that your activities would be ''unlikely to adversely affect'' listed species or critical habitat?

=> If no, proceed to Step Three

2–B–2 IF YOU AGREE TO IMPLEMENT ANY MEASURES UPON WHICH THE CONSULTATION WAS CONDITIONED, YOU ARE ELIGIBLE UNDER CRITERIA ''B''. Incorporate any necessary measures into your Storm Water Pollution Prevention Plan, document your endangered species assessment, and certify eligibility under Part 1.2.3.6.3.2. Congratulations, go to Step Five!

=> If you do not agree to implement conditions upon which the consultation was based, proceed to Step Three

2–C *Check for Criteria ''C'' Eligibility* IF YOUR ESA § 10 PERMIT CONSIDERED ALL CURRENTLY LISTED SPECIES AND CRITICAL HABITAT AND ADDRESSES YOUR STORM WATER, ALLOWABLE NON-STORM WATER, AND DISCHARGE RELATED ACTIVITIES, YOU ARE ELIGIBLE UNDER CRITERIA ''C''. Incorporate any necessary measures into your Storm Water Pollution Prevention Plan, document your endangered species assessment, and certify eligibility under Part 1.2.3.6.3.3 of the permit. Congratulations, go to Step Five!

=> If your ESA § 10 permit did not meet these criteria, proceed to Step Three

2–D Check for Criteria ''E'' Eligibility Did the other operator's certification of eligibility consider all currently listed species and critical habitat and address your storm water, allowable non-storm water, and discharge related activities?

=> If no, proceed to Step Three

2–D–1 IF YOU AGREE TO IMPLEMENT ANY MEASURES UPON WHICH THE OTHER OPERATOR'S CERTIFICATION WAS BASED, YOU ARE ELIGIBLE UNDER CRITERIA ''E''. Incorporate any necessary measures into your Storm Water Pollution Prevention Plan, document your endangered species assessment, and certify eligibility under Part 1.2.3.6.3.5 of the Permit. Congratulations, go to Step Five!

=> If you do not agree to implement conditions upon which another operator's certification was based, proceed to Step Three

Step Three: Are Listed Species or Critical Habitat Likely To Be Adversely Affected by Your Facility's Storm Water Discharges, Allowable Non-storm Water Discharges, or Discharge-related Activities?

If you are unable to certify eligibility under Criteria A, B, C, or E, you must assess whether your storm water discharges, allowable non-storm water discharges, and discharge-related activities are likely to pose jeopardy to listed species or critical habitat. ''Storm water discharge-related activities'' include:

Activities which cause, contribute to, or result in point source storm water pollutant discharges; and

Measures to control storm water discharges and allowable non-storm water discharges including the siting, construction, operation of best management practices (BMPs) to control, reduce or prevent water pollution.

Effects from storm water discharges, allowable non-storm water discharges, and discharge-related activities which could pose jeopardy include:

Hydrological. Wastewater or storm water discharges may cause siltation, sedimentation or induce other changes in receiving waters such as temperature, salinity or pH. These effects will vary with the amount of wastewater or storm water discharged and the volume and condition of the receiving water. Where a discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely.

Habitat. Excavation, site development, grading, and other surface disturbance activities, including the installation or placement of wastewater or storm water ponds or BMPs, may adversely affect listed species or their habitat. Wastewater or storm water associated with facility operation may drain or inundate listed species habitat.

Toxicity. In some cases, pollutants in wastewater or storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each facility. If you are having difficulty in determining whether your facility is likely to pose jeopardy to a listed specie or critical habitat, then the appropriate office of the FWS, NMFS, or Natural Heritage Center listed in Sections II and III of this Addendum should be contacted for assistance.

Document the results of your assessment and make a preliminary determination on whether or not there would likely be any jeopardy to listed species or critical habitat. You will need to determine that your activities are either ''unlikely to adversely affect'' or ''may adversely affect''. Your determination may be based on measures that you implement to avoid, eliminate, or minimize adverse affects.

=> Proceed to Step Four

Step Four: Can You Meet Eligibility Criteria ''D''?

Using best judgment, can you determine your facility's storm water discharges, allowable non-storm water discharges, and discharge-related activities are unlikely to pose jeopardy to listed species or critical habitat?

4–A IF STEP THREE DETERMINATION IS ''UNLIKELY TO ADVERSELY AFFECT'', YOU ARE ELIGIBLE UNDER CRITERIA ''D''. Incorporate appropriate measures upon which your eligibility was based into your Storm Water Pollution Prevention Plan and certify eligibility under Part 1.2.3.6.3.4 of the permit. Congratulations, go to Step Five.

=> If there may be adverse effects, proceed to Step 4–B

4–B *Step Three (or Step 4–A–1) Determination is ''May Adversely Affect''* You must contact the Service(s) to discuss your findings and measures you could implement to avoid, eliminate, or minimize adverse affects.

4–B–1 IF YOU AND THE SERVICE(S) REACH AGREEMENT ON MEASURES TO AVOID ADVERSE EFFECTS, YOU ARE ELIGIBLE UNDER CRITERIA ''D''. Incorporate appropriate measures upon which your eligibility was based into your Storm Water Pollution Prevention Plan and certify eligibility under Part 1.2.3.6.3.4 of the permit. Congratulations, go to Step Five.

4–C *Endangered Species Issues Cannot be Resolved* If you cannot reach agreement with the Service(s) on measures to avoid, eliminate, or reduce adverse effects to an acceptable level; and if any likely adverse effects cannot otherwise be addressed through meeting the other criteria of Part 1.2.3.6; then you are not eligible for coverage under the MSGP at this time and must seek coverage under an individual permit. Proceed to 40 CFR 122.26(c) for individual permit application requirements.

Step Five: Submit Notice of Intent and Document Results of the Eligibility Determination

Once all other Part 1.2 eligibility requirements have been met, you may submit the Notice of Intent (NOI). Signature and submittal of the NOI is also deemed to constitute your certification, under penalty of law, of your eligibility for permit coverage.

You must include documentation of Part 1.2.3.6 eligibility in the pollution prevention plan required for the facility. Documentation required for the various eligibility criteria are as follows:

Criteria A—A copy of the County-Species List pages with the county(ies) where your facility and discharges are located and a statement on how you determined that no listed species or critical habitat was in proximity to your discharge.

Criteria B—A copy of the Service(s)'s Biological Opinion or concurrence on a finding of ''unlikely to adversely effect'' regarding the ESA § 7 consultation.

Criteria C—A copy of the Service(s)'s letter transmitting the ESA § 10 authorization.

Criteria D—Documentation on how you determined adverse effects on listed species and critical habitat were unlikely.

Criteria E—A copy of the documents originally used by the other operator of your facility (or area including your facility) to satisfy the documentation requirement of Criteria A, B, C or D.

E. Duty To Implement Terms and Conditions Upon Which Eligibility Was Determined

You must comply with any terms and conditions imposed under the eligibility requirements of Part 1.2.3.6.3 to ensure that your storm water discharges, allowable non-storm water discharges, and discharge-related activities do not pose jeopardy to listed species and/or critical habitat. You must incorporate such terms and conditions in your facility's Storm Water Pollution Prevention Plan as required by the permit. If the eligibility requirements of Part 1.2.3.6 cannot be met, then you may not receive coverage under this permit. You should then consider applying to the permitting authority for an individual permit.

II. U.S. Fish and Wildlife Service Offices

National Website For Endangered Species Information. Endangered Species Home page: http://www.fws.gov/r9endspp/endspp.html

Regional, State, Field and Project Offices

USFWS, Region One—Regional Office

Division Chief, Endangered Species, U.S. Fish and Wildlife Service, ARD Ecological Services, 911 NE 11 Avenue, Portland, OR 97232–4181, (503) 231–6121

State, Field, and Project Offices (Region One)

Field Supervisor, U.S. Fish and Wildlife Service, P.O. Box 50088, 300 Ala Moana Blvd., Rm 3108, Honolulu, HI 96850

Field Supervisor, U.S. Fish and Wildlife Service, Upper Columbia R. Basin F&W Office, 11103 East Montgomery Drive, Ste 2, Spokane, WA 99306

State Supervisor, U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office, 2600 S.E 98th Avenue Suite 100, Portland, OR 97266

Field Supervisor, U.S. Fish and Wildlife Service, Snake River Basin F&W Office, 1387 South Vinnell Way, Room 368, Boise, Idaho 83709

State Supervisor, U.S. Fish and Wildlife Service, Nevada State Office, 4600 Kietzke Lane, Building C, Rm. 125, Reno, NV 89502–5093

State Supervisor, U.S. Fish and Wildlife Service, Western Washington F&W Office, 510 Desmond Dr., Suite 102, Lacey, WA 98503–1273

Field Supervisor, U.S. Fish and Wildlife Service, Klamath Falls F&W Office, 6600 Washburn Way, Klamath Falls, OR 97603

Field Supervisor, U.S. Fish and Wildlife Service, Klamath River F&W Office, 1215 South Main, Suite 212, Yreka, CA 96097–1006

Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2730 Loker Avenue West, Carlsbad, CA 92008

Field Supervisor, U.S. Fish and Wildlife Service, Ventura Field Office, 2493 Portola Road, Suite B, Ventura, CA 93003

Project Leader, U.S. Fish and Wildlife Service, Coastal California Fish and Wildlife Office, 1125 16th St., Rm. 209, Arcata, CA 95521–5582

Project Leader, U.S. Fish and Wildlife Service, Northern Central Valley F&W Office, 10959 Tyler Road, Red Bluff, CA 96080

State Supervisor, U.S. Fish and Wildlife Service, California State Office, 3310 El Camino Avenue, Suite 120, Sacramento, CA 95821–6340

Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Fish & Wildlife Office, 3310 El Camino Avenue, Suite 120, Sacramento, CA 95821–6340

USFWS Region Two—Regional Office

Division Chief, Endangered Species, U.S. Fish and Wildlife Service, ARD Ecological Services, P.O. Box 1306, Albuquerque, NM 87103

State, Field, and Project Offices (Region Two)

Field Supervisor, U.S. Fish and Wildlife Service, Corpus Christi Field Office, 6300 Ocean Dr., Campus Box 338, Corpus Christi, TX 78412

Field Supervisor, U.S. Fish and Wildlife Service, Arlington Field Office, 711 Stadium Dr., East, Suite 252, Arlington, TX 76011

Field Supervisor, U.S. Fish and Wildlife Service, Clear Lake Field Office, 17629 El Camino Real, Suite 211, Houston, TX 77058

Field Supervisor, U.S. Fish and Wildlife Service, Oklahoma Field Office, 222 S. Houston, Suite a, Tulsa, OK 74127

Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Field Office, 2105 Osuna, NE, Albuquerque, NM 87113

Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Serv. Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758

Field Supervisor, U.S. Fish and Wildlife Service, Arizona State Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, AZ 85021–4951

USFWS Region Three—Regional Office

Division Chief, Endangered Species, U.S. Fish and Wildlife Service, ARD Ecological Services, BHW Federal Bldg, 1 Federal Drive, Fort Snelling, MN 55111–4056

State, Field, and Project Offices (Region Three)

Field Supervisor, U.S. Fish and Wildlife Service, Chicago, Illinois Field Office, 1000 Hart Rd., Suite 180, Barrington, IL 60010

Field Supervisor, U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Road, East Lansing, MI 48823

Field Supervisor, U.S. Fish and Wildlife Service, Reynoldsburg Field Office, 6950 Americana Parkway, Suite H, Reynoldsburg, OH 43068–4132

Field Supervisor, U.S. Fish and Wildlife Service, Bloomington Field Office, 620 South Walker Street, Bloomington, IN 47403–2121

Field Supervisor, U.S. Fish and Wildlife Service, Twin Cities E.S. Field Office, 4101 East 80th Street, Bloomington, MN 55425–1665

Field Supervisor, U.S. Fish and Wildlife Service, Columbia Field Office, 608 East Cherry Street, Room 200, Columbia, MO 65201–7712

Field Supervisor, U.S. Fish and Wildlife Service, Green Bay Field Office, 1015 Challenger Court, Green Bay, WI 54311–8331

Field Supervisor, U.S. Fish and Wildlife Service, Rock Island Field Office, 4469 48th Avenue Court, Rock Island, IL 61201

Field Supervisor, U.S. Fish and Wildlife Service, Marion Suboffice, Route 3, Box 328, Marion, IL 62959–4565

USFWS Region Four—Regional Office

Division Chief, Endangered Species, U.S. Fish and Wildlife Service, ARD—Ecological Services, 1875 Century Blvd., Suite 200, Atlanta, GA 30345

State, Field, and Project Offices (Region Four)

Field Supervisor, U.S. Fish and Wildlife Service, Panama City Field Office, 1612 June Avenue, Panama City, FL 32405–3721

Field Supervisor, U.S. Fish and Wildlife Service, South Florida Ecosystem Field Office, 1360 U.S. Hwy 1, #5; P.O. Box 2676, Vero Beach, FL 32961–2676

Field Supervisor, U.S. Fish and Wildlife Service, Caribbean Field Office, P.O. Box 491, Boqueron, PR 00622

Field Supervisor, U.S. Fish and Wildlife Service, Puerto Rican Parrot Field Office, P.O. Box 1600, Rio Grande, PR 00745

Field Supervisor, U.S. Fish and Wildlife Service, Brunswick Field Office, 4270 Norwich Street, Brunswick, GA 31520–2523

Field Supervisor, U.S. Fish and Wildlife Service, Jacksonville Field Office, 6620 Southpoint Drive S., Suite 310, Jacksonville, FL 32216–0912

Field Supervisor, U.S. Fish and Wildlife Service, Charleston Field Office, 217 Ft. Johnson Road, P.O. Box 12559, Charleston, SC 29422–2559

Field Supervisor, U.S. Fish and Wildlife Service, Clemson F.O., Dept. of Forest Resources, 261 Lehotsky Hall, Box 341003, Clemson, SC 29634–1003

Field Supervisor, U.S. Fish and Wildlife Service, Raleigh Field Office, P.O. Box 33726, Raleigh, NC 27636–3726

Field Supervisor, U.S. Fish and Wildlife Service, Cookeville Field Office, 446 Neal Street, Cookeville, TN 38501

Field Supervisor, U.S. Fish and Wildlife Service, Asheville Field Office, 160 Zillicoa Street, Asheville, NC 28801
Field Supervisor, U.S. Fish and Wildlife Service, Daphne Field Office, P.O. Drawer 1190, Daphne, AL 36526
Field Supervisor, U.S. Fish and Wildlife Service, Vicksburg Field Office, 2524 S. Frontage Road, Suite B, Vicksburg, MS 39180–5269
Field Supervisor, U.S. Fish and Wildlife Svc., Lafayette Field Office, Brandywine II, Suite 102, 825 Kaliste Saloom Road, Lafayette, LA 70508
Field Supervisor, U.S. Fish and Wildlife Service, Jackson Field Office, 6578 Dogwood View Pkwy Suite A, Jackson, MS 39213

Region Five—Regional Office

Division Chief, Endangered Species, U.S. Fish and Wildlife Service, ARD Ecological Services, 300 Westgate Center Drive, Hadley, MA 01035–9589

State, Field and Project Offices (Region Five)

Project Leader, U.S. Fish and Wildlife Service, Delaware Bay Estuary Project, 2610 Whitehall Neck Road, Smyrna, DE 19977
Project Leader, U.S. Fish and Wildlife Service, Southern New England/NYBCE Program, Shoreline Plaza, Route 1A, P.O. Box 307, Charlestown, RI 02813
Project Leader, U.S. Fish and Wildlife Service, Gulf of Maine Project, 4 R Fundy Road, Falmouth, ME 04105
Project Leader U.S. Fish and Wildlife Service, Chesapeake Bay Field, Office, 177 Admiral Cochrane Drive, Annapolis, Maryland 21401
Project Leader, U.S. Fish and Wildlife Service, Virginia Field Office, P.O. Box 99, 6669 Short Lane, Gloucester, VA 23061
Project Leader, U.S. Fish and Wildlife Service, Southwestern Virginia Field Office, P.O. Box 2345, Abingdon, VA 24212
Project Leader, U.S. Fish and Wildlife Service, New England Field Office, 22 Bridge St., Unit #1, Concord, New Hampshire 03301–4986
Project Leader, U.S. Fish and Wildlife Service, Maine Field Office, 1033 South Main St., Old Town, Maine 04468
Project Leader, U.S. Fish and Wildlife Service, Rhode Island Field Office, Shoreline Plaza, Route 1A; P.O. Box 307, Charlestown, Rhode Island 02813
Project Leader, U.S. Fish and Wildlife Service, Vermont Field Office, 11 Lincoln Street, Winston Prouty Federal Building, Essex Junction, VT 05452
Project Leader, U.S. Fish and Wildlife Service, New Jersey Field Office, 927 North Main St., Bldg. D1, Pleasantville, New Jersey 08232
Project Leader, U.S. Fish and Wildlife Service, New York Field Office, 3817 Luker Road, Cortland, New York 13045
Project Leader, U.S. Fish and Wildlife Service, Long Island Field Office, P.O. Box 608, Islip, New York 11751–0608
Project Leader, U.S. Fish and Wildlife Service, Pennsylvania Field Office, 315 S. Allen St., Suite 322, State College, Pennsylvania 16801
Project Leader, U.S. Fish and Wildlife Service, Eastern Pennsylvania Field Office, 11 Hap Arnold Boulevard, Box H, Tobyhanna, Pennsylvania 18466–0080
Project Leader, U.S. Fish and Wildlife Service, West Virginia Field Office, Route 250, S.—Elkins Shopping Plaza, Elkins, West Virginia 26241

Region Six—Regional Office

Division Chief, Endangered Species, U.S. Fish and Wildlife Service, ARD-Ecological Services, P.O. Box 25486, DFC, Denver, CO 80225

State, Field, and Project Offices (Region Six)

Field Supervisor, U.S. Fish and Wildlife Service, Montana Field Office, 100 N. Park, Suite 320, Helena, MT 59601
Sub-Office Supervisor, U.S. Fish and Wildlife Service, Billings Sub-Office, 2900 4th Ave. North-Rm 301, Billings, MT 59101
Sub-Office Supervisor, U.S. Fish and Wildlife Service, Kalispell Sub-Office, 780 Creston Hatchery Road, Kalispell, MT 59901
Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, Forestry Sciences Lab, University of Montana, Missoula, MT 59812
Field Supervisor, U.S. Fish and Wildlife Service, North Dakota Field Office, 1500 Capitol Avenue, Bismarck, ND 58501
Field Supervisor, U.S. Fish and Wildlife Service, Nebraska Field Office, 203 W. 2nd Street; Federal Bldg., 2nd Floor, Grand Island, NE 68801
Field Supervisor, U.S. Fish and Wildlife Service, Kansas Field Office, 315 Houston, Suite E, Manhattan, KS 66502
Field Supervisor, U.S. Fish and Wildlife Service, South Dakota Field Office, 420 S. Garfield Ave., Suite 400, Pierre, SD 57501–5408
Field Supervisor, U.S. Fish and Wildlife Service, Salt Lake City Field Office, Lincoln Plaza, 145 East 1300 South—Suite 404, Salt Lake City, UT 84115
Field Supervisor, U.S. Fish and Wildlife Service, Colorado Field Office, 730 Simms, Suite 290, Golden, CO 80401–4798
Field Supervisor, U.S. Fish and Wildlife Service, Western Colorado Field Office, 764 Horizon Drive South, Annex A, Grand Junction, CO 81506–3946
Field Supervisor, U.S. Fish and Wildlife Service, Wyoming Field Office, 4000 Morrie Avenue, Cheyenne, WY 82001
E.S. Coordinator, U.S. Fish and Wildlife Service, Rocky Mountain Arsenal, National Wildlife Area, Building 111, Commerce City, CO 80022–1748
Colorado River Recovery Coordinator, U.S. Fish and Wildlife Service, P.O. Box 25486, DFC, Denver, CO 80225
U.S. Fish and Wildlife Service, Laramie Black Footed Ferret Office, 410 Grand Ave., Suite 315, Laramie, WY 80270

Region Seven—Regional Office

Division Chief, Endangered Species, U.S. Fish and Wildlife Service, ARD Ecological Services, 1011 E. Tudor Road, Anchorage, AK 99503

State, Field, and Project Offices (Region Seven)

Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services, 605 West 4th Avenue, Room G–62, Anchorage, AK 99501
Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services, 101 12th Avenue, Box 19 (Room 232), Fairbanks, AK 99701
Field Supervisor, U.S. Fish and Wildlife Service, Ketchikan Sub-office, 103 Main Street, P.O. Box 3193, Ketchikan, AK 99901
Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services, 300 Vintage Blvd., Suite 201, Juneau, AK 99801
Region Eight—Has not yet been created out of the other FWS Regions at the time of this posting.

Region Nine

Janet Ady—Outreach, U.S. Fish and Wildlife Service, National Conservation Training Center, Route 3, Box 49, Kearneysville, WV 25430
Dan Benfield—Training, U.S. Fish and Wildlife Service, National Conservation Training Center, Route 3, Box 49, Kearneysville, WV 25430

III. National Marine Fisheries Service Offices

The National Marine Fisheries Service is developing a database to provide county and territorial water (up to three miles offshore) information on the presence of endangered and threatened species and critical habitat. The database should be found at the ''Office of Protected Resources'' site on the NMFS Homepage at http://www.nmfs.gov.

Regional and Field Offices—Northeast Region

Protected Resources Program, National Marine Fisheries Service, Northeast Region, One Blackburn Drive, Gloucester, Massachusetts 01930
Milford Field Office, National Marine Fisheries Service, 212 Rogers Avenue, Milford, Connecticut 06460
Oxford Field Office, National Marine Fisheries Service, 904 So. Morris Street, Oxford, Maryland 21654
Sandy Hook Field Office, James J. Howard Marine Sciences Laboratory, National Marine Fisheries Service, 74 Magruder Road, Highlands, New Jersey 07732
Protected Species Branch, National Marine Fisheries Service, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, Massachusetts 02543

Southeast Region

Protective Species Management Branch, National Marine Fisheries Service, Southeast Region, 9721 Executive Center Drive, St. Petersburg, Florida 33702–2432

Northwest Region

Protected Species Division, National Marine Fisheries Service, Northwest Region, 525 NE Oregon, Suite 500, Portland, Oregon 97232–2737
Boise Field Office, National Marine Fisheries Service, 1387 S. Vinnel Way, Suite 377, Boise, Idaho 83709
Olympia Field Office, National Marine Fisheries Service, 510 Desmond Drive, SE, Suite 103, Lacey, Washington 98503

Roseburg Field Office, National Marine Fisheries Service, 2900 Stewart Parkway NW, Roseburg, Oregon 97470

Rufus Field Office, National Marine Fisheries Service, P.O. Box 67, 704 ''E'' 1st, Rufus, Oregon 97050

Southwest Region

Protected Species Management Division, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, California 90802–4213

Arcata Field Office, National Marine Fisheries Service, 1125 16th Street, Room 209, Arcata, California 95521

Eureka Field Office, National Marine Fisheries Service, 1330 Bayshore Way, Eureka, California 95501

Pacific Islands Area Field Office, National Marine Fisheries Service, 2570 Dole Street, Room 106, Honolulu, Hawaii 96822–2396

Santa Rosa Field Office, Protected Resources Program, National Marine Fisheries Service, 777 Sonoma Avenue, Room 325, Santa Rosa, California 95404

Alaska Region

Protected Resources Management, Division, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Building 461, P.O. Box 21767, Juneau, Alaska 99802

Anchorage Office, 222 West 7th Avenue, Box 10, Anchorage, Alaska 99513–7577

IV. Natural Heritage Centers

The Natural Heritage Network comprises 85 biodiversity data centers throughout the Western Hemisphere. These centers collect, organize, and share data relating to endangered and threatened species and habitat. The network was developed to inform land-use decisions for developers, corporations, conservationists, and government agencies and is also consulted for research and educational purposes. The centers maintain a Natural Heritage Network Control Server Website (http://www.heritage.tnc.org) which provides website and other access to a large number of specific biodiversity centers. Some of these centers are listed below:

Alabama Natural Heritage Program, Huntingdon College, Massey Hall, 1500 East Fairview Avenue, Montgomery, AL 36106–2148, (334) 834–4519 Fax: (334) 834–5439, Internet: alnhp@wsnet.com

Alaska Natural Heritage Program, University of Alaska Anchorage, 707 A Street, Anchorage, AK 99501, 907/257–2702 Fax: 907/258–9139, Program Director: David Duffy, 257–2707, Internet: afdcd1@orion.alaska.edu

Arizona Heritage Data Management System, Arizona Game & Fish Department, WM–H, 2221 W. Greenway Road, Phoenix, AZ 85023, 602/789–3612 Fax: 602/789–3928, Internet: hdms@gf.state.az.us Internet: hdms1@gf.state.az.us

Arkansas Natural Heritage Commission, Suite 1500, Tower Building, 323 Center Street, Little Rock, AR 72201, 501/324–9150 Fax: 501/324–9618, Director: Harold K. Grimmett, –9614

California Natural Heritage Division, Department of Fish & Game, 1220 S Street, Sacramento, CA 95814, 916/322–2493 Fax: 916/324–0475

Colorado Natural Heritage Program, Colorado State University, 254 General Services Building, Fort Collins, CO 80523, 970/491–1309 Fax: 970/491–3349

Connecticut Natural Diversity Database, Natural Resources Center, Department of Environmental Protection, 79 Elm Street, Store Level, Hartford, CT 06106–5127, 860/424–3540 Fax: 860/424–4058

Delaware Natural Heritage Program, Division of Fish & Wildlife, Department of Natural Resources & Environmental Control, 4876 Hay Point Landing Road Smyrna, DE 19977, 302/653–2880 Fax: 302/653–3431

District of Columbia Natural Heritage Program, 13025 Riley's Lock Road, Poolesville, MD 20837, 301/427–1302 Fax: 301/427–1355

Florida Natural Areas Inventory, 1018 Thomasville Road, Suite 200–C, Tallahassee, FL 32303, 904/224–8207 Fax: 904/681–9364

Florida Natural Areas Inventory, Eglin Air Force Base, P.O. Box 1150, Niceville, FL 32588, 904/883–6451 Fax: 904/682–8381

Georgia Natural Heritage Program, Wildlife Resources Division, Georgia Department of Natural Resources, 2117 U.S. Highway 278 S.E., Social Circle, GA 30279, 706/557–3032 or 770/918–6411, Fax: 706/557–3033 or 706/557–3040 Internet: natural_heritage@mail.dnr.state.ga.us

Hawaii Natural Heritage Program, The Nature Conservancy of Hawaii, 1116 Smith Street, Suite 201, Honolulu, HI 96817, 808/537–4508 Fax: 808/545–2019

Idaho Conservation Data Center, Department of Fish & Game, 600 South Walnut Street, Box 25, Boise, ID 83707–0025, 208/334–3402 Fax: 208/334–2114

Illinois Natural Heritage Division, Department of Natural Resources, Division of Natural Heritage, 524 South Second Street, Springfield, IL 62701–1787, 217/785–8774 Fax: 217/785–8277

Illinois Nature Preserves Commission, Director: Carolyn Grosboll, Deputy Dir/Steward: Randy Heidorn, Deputy Dir/Protect: Don McFall, Office Specialist: Karen Tish, 217/785–8774 Fax: 217/785–8277

Indiana Natural Heritage Data Center, Division of Nature Preserves, Department of Natural Resources, 402 West Washington Street, Room W267, Indianapolis, IN 46204, 317/232–4052 Fax: 317/233–0133

Iowa Natural Areas Inventory, Department of Natural Resources, Wallace State Office Building, Des Moines, IA 50319–0034, Fax: 515/281–6794, Coordinator/Zoologist: Daryl Howell, 515/281–8524

Kansas Natural Heritage Inventory, Kansas Biological Survey, 2041 Constant Avenue, Lawrence, KS 66047–2906, 913/864–3453 Fax: 913/864–5093

Kentucky Natural Heritage Program, Kentucky State Nature Preserves Commission, 801 Schenkel Lane, Frankfort, KY 40601, 502/573–2886 Fax: 502/573–2355

Louisiana Natural Heritage Program, Department of Wildlife & Fisheries, P.O. Box 98000, Baton Rouge, LA 70898–9000, 504/765–2821 Fax: 504/765–2607

Maine Natural Areas Program, Department of Conservation (FedEx/UPS: 159 Hospital Street), 93 State House Station, Augusta, ME 04333–0093, 207/287–8044 Fax: 207/287–8040, Internet: mnap@state.me.us Web site: http://www.state.me.us/doc/mnap/home.htm

Maryland Heritage & Biodiversity Conservation Programs, Department of Natural Resources, Tawes State Office Building, E–1, Annapolis, MD 21401, 410/260–8540 Fax: 410/260–8595, Web site: http://www.heritage.tnc.org/nhp/us/md/

Massachusetts Natural Heritage & Endangered Species Program, Division of Fisheries & Wildlife, Route 135, Westborough, MA 01581 508/792–7270 ext. 200 Fax: 508/792–7275

Michigan Natural Features Inventory, Mason Building, 5th floor (FedEx/UPS: 530 W Allegan, 48933), Box 30444, Lansing, MI 48909–7944, 517/373–1552 Fax: 517/373–6705, Director: Leni Wilsmann, 373–7565, Internet: wilsmanl@wildlife.dnr.state.mi.us

Minnesota Natural Heritage & Nongame Research, Department of Natural Resources, 500 Lafayette Road, Box 7, St. Paul, MN 55155, 612/297–4964 Fax: 612/297–4961

Mississippi Natural Heritage Program, Museum of Natural Science, 111 North Jefferson Street, Jackson, MS 39201–2897, 601/354–7303 Fax: 601/354–7227

Missouri Natural Heritage Database, Missouri Department of Conservation, P.O. Box 180 (FedEx: 2901 West Truman Blvd), Jefferson City, MO 65102–0180, 573/751–4115 Fax: 573/526–5582

Montana Natural Heritage Program, State Library Building, 1515 E. 6th Avenue, Helena, MT 59620, 406/444–3009 Fax: 406/444–0581, Internet: mtnhp@nris.msl.mt.gov, Homepage/World Wide Web: http://nris.msl.mt.gov/mtnhp/nhp-dir.html

Navajo Natural Heritage Program, P.O. Box 1480, Window Rock, Navajo Nation, AZ 86515, (520) 871–7603, (520) 871–7069 (FAX)

Nebraska Natural Heritage Program, Game and Parks Commission, 2200 North 33rd Street, P.O. Box 30370, Lincoln, NE 68503, 402/471–5421 Fax: 402/471–5528

Nevada Natural Heritage Program, Department of Conservation & Natural Resources, 1550 E. College Parkway, Suite 145, Carson City, NV 89706–7921, 702/687–4245 Fax: 702/885–0868

New Hampshire Natural Heritage Inventory, Department of Resources & Economic Development, 172 Pembroke Street, P.O. Box 1856, Concord, NH 03302, 603/271–3623 Fax: 603/271–2629

New York Natural Heritage Program, Department of Environmental Conservation, 700 Troy-Schenectady Road, Latham, NY 12110–2400, 518/783–3932 Fax: 518/783–3916, Computer: 518/783–3946

North Carolina Heritage Program, NC Department of Environment, Health & Natural Resources, Division of Parks & Recreation, P.O. Box 27687, Raleigh, NC 27611–7687, 919–733–4181 Fax: 919/715–3085

North Dakota Natural Heritage Inventory, North Dakota Parks & Recreation

Department, 1835 Bismarck Expressway, Bismarck, ND 58504, 701/328–5357 Fax: 701/328–5363

Ohio Natural Heritage Data Base, Division of Natural Areas & Preserves, Department of Natural Resources, 1889 Fountain Square, Building F–1, Columbus, OH 43224, 614/265–6453 Fax: 614/267–3096

Oklahoma Natural Heritage Inventory, Oklahoma Biological Survey, 111 East Chesapeake Street, University of Oklahoma, Norman, OK 73019–0575, 405/325–1985 Fax: 405/325–7702, Web site: http://obssun02.uoknor.edu/biosurvey/onhi/home.html

Oregon Natural Heritage Program, Oregon Field Office, 821 SE 14th Avenue, Portland, OR 97214 503/731–3070; 230–1221 Fax: 503/230–9639

Pennsylvania Natural Diversity Inventory (East, West, Central)

* Pennsylvania Natural Diversity Inventory—East, The Nature Conservancy, 34 Airport Drive, Middletown, PA 17057, 717/948–3962 Fax: 717/948–3957

* Pennsylvania Natural Diversity Inventory—West, Western Pennsylvania Conservancy, Natural Areas Program, 316 Fourth Avenue, Pittsburgh, PA 15222, 412/288–2777 Fax: 412/281–1792

* Pennsylvania Natural Diversity Inventory—Central, Bureau of Forestry, P.O. Box 8552, Harrisburg, PA 17105–8552, 717/783–0388 Fax: 717/783–5109

Puerto Rico Natural Heritage Program, Division de Patrimonio Natural, Area de Planificacion Integral, Departamento de Recursos Naturales y Ambientales de Puerto Rico, P.O. Box 5887, Puerta de Tierra, Puerto Rico 00906, Tel: 787–722–1726, Fax: 787–725–9526

Rhode Island Natural Heritage Program, Department of Environmental Management, Division of Planning & Development, 83 Park Street, Providence, RI 02903, 401/277–2776, x4308 Fax: 401/277–2069

South Carolina Heritage Trust, SC Department of Natural Resources, P.O. Box 167, Columbia, SC 29202, 803/734–3893 Fax: 803/734–6310 (Call first)

South Dakota Natural Heritage Data Base, SD Department of Game, Fish & Parks Wildlife Division, 523 E. Capitol Avenue, Pierre, SD 57501–3182, 605/773–4227 Fax: 605/773–6245

Tennessee Division of Natural Heritage, Department of Environment & Conservation, 401 Church Street, Life and Casualty Tower, 8th Floor, Nashville, TN 37243–0447, 615/532–0431 Fax: 615/532–0614

Texas Biological and Conservation Data System, 3000 South IH–35, Suite 100, Austin, TX 78704, 512/912–7011 Fax: 512/912–7058

U.S. Virgin Islands Conservation Data Center, Eastern Caribbean Center, University of the Virgin Islands, No. 2 John Brewers Bay, St. Thomas, VI 00802, (809) 693–1030 [Voice] (809) 693–1025, [Fax], Home Page: cdc.uvi.edu, E-Mail:dbarry@uvi.edu

Utah Natural Heritage Program, Division of Wildlife Resources, 1596 West North Temple, Salt Lake City, UT 84116, 801/538–4761 Fax: 801/538–4709

Vermont Nongame & Natural Heritage Program, Vermont Fish & Wildlife Department, 103 S. Main Street, 10 South, Waterbury, VT 05671–0501, 802/241–3700 Fax: 802/241–3295

Virginia Division of Natural Heritage, Department of Conservation & Recreation, Main Street Station, 1500 E. Main Street, Suite 312, Richmond, VA 23219, 804/786–7951 Fax: 804/371–2674

Washington Natural Heritage Program, Department of Natural Resources, (FedEx: 1111 Washington Street, SE), P.O. Box 47016, Olympia, WA 98504–7016, 360/902–1340 Fax: 360/902–1783

West Virginia Natural Heritage Program, Department of Natural Resources, Operations Center, Ward Road, P.O. Box 67, Elkins, WV 26241, 304/637–0245 Fax: 304/637–0250

Wisconsin Natural Heritage Program, Endangered Resources, Department of Natural Resources, 101 S. Webster Street, Box 7921, Madison, WI 53707, 608/266–7012 Fax: 608/266–2925

Wyoming Natural Diversity Database, 1604 Grand Avenue, Suite 2, Laramie, WY 82070, 307/745–5026 Fax: 307/745–5026 (Call first), Internet: wyndd@lariat.or

Addendum B—Historic Properties Guidance

Applicants must determine whether their facility's storm water discharges, allowable non-storm water discharges, or construction of best management practices (BMPs) to control such discharges, has potential to affect a property that is either listed or eligible for listing on the National Register of Historic Places.

For existing dischargers who do not need to construct BMPs for permit coverage, a simple visual inspection may be sufficient to determine whether historic properties are affected. However, for facilities which are new industrial storm water dischargers and for existing facilities which are planning to construct BMPs for permit eligibility, applicants should conduct further inquiry to determine whether historic properties may be affected by the storm water discharge or BMPs to control the discharge. In such instances, applicants should first determine whether there are any historic properties or places listed on the National Register or if any are eligible for listing on the register (*e.g.,* they are ''eligible for listing'').

Due to the large number of entities seeking coverage under this permit and the limited number of personnel available to State and Tribal Historic Preservation Officers nationwide to respond to inquiries concerning the location of historic properties, EPA suggests that applicants first access the ''National Register of Historic Places'' information listed on the National Park Service's web page (see Part I of this addendum). Addresses for State Historic Preservation Officers and Tribal Historic Preservation Officers are listed in Parts II and III of this addendum, respectively. In instances where a Tribe does not have a Tribal Historic Preservation Officer, applicants should contact the appropriate Tribal government office when responding to this permit eligibility condition. Applicants may also contact city, county or other local historical societies for assistance, especially when determining if a place or property is eligible for listing on the register.

The following three scenarios describe how applicants can meet the permit eligibility criteria for protection of historic properties under this permit:

(1) If historic properties are not identified in the path of a facility's storm water and allowable non-storm water discharges or where construction activities are planned to install BMPs to control such discharges (*e.g.,* diversion channels or retention ponds), then the applicant has met the permit eligibility criteria under Part 1.2.3.7.1.

(2) If historic properties are identified but it is determined that they will not be affected by the discharges or construction of BMPs to control the discharge, the applicant has met the permit eligibility criteria under Part 1.2.3.7.1.

(3) If historic properties are identified in the path of a facility's storm water and allowable non-storm water discharges or where construction activities are planned to install BMPs to control such discharges, and it is determined that there is the potential to adversely affect the property, the applicant can still meet the permit eligibility criteria under Part 1.2.3.7.2 if he/she obtains and complies with a written agreement with the appropriate State or Tribal Historic Preservation Officer which outlines measures the applicant will follow to mitigate or prevent those adverse effects. The contents of such a written agreement must be included in the facility's Storm Water Pollution Prevention Plan. The NOI form is being amended to include which option was selected to demonstrate compliance with NHPA provisions. EPA will notify applicants when the new NOI form takes effect.

In situations where an agreement cannot be reached between an applicant and the State or Tribal Historic Preservation Officer, applicants should contact the Advisory Council on Historic Preservation listed in Part IV of this addendum for assistance.

The term ''adverse effects'' includes but is not limited to damage, deterioration, alteration or destruction of the historic property or place. EPA encourages applicants to contact the appropriate State or Tribal Historic Preservation Officer as soon as possible in the event of a potential adverse effect to a historic property.

Applicants are reminded that they must comply with applicable State, Tribal and local laws concerning the protection of historic properties and places.

I. Internet Information on the National Register of Historic Places

An electronic listing of the ''National Register of Historic Places,'' as maintained by the National Park Service on its National Register Information System (NRIS), can be accessed on the Internet at ''http://www.nr.nps.gov/nrishome.htm''. Remember to use small case letters when accessing Internet addresses.

II. State Historic Preservation Officers (SHPO)

SHPO and Deputy SHPO List:

Alabama

Dr. Lee Warner, SHPO, Alabama Historical Commission, 468 South Perry Street, Montgomery, AL 36130–0900, 334–242–3184 FAX: 334–240–3477, E-Mail: *lwarner@mail.preserveala.org/*
Deputy: Ms. Elizabeth Ann Brown, E-Mail: *ebrown@mail.preserveala.orgwww.preserveala.org*

Alaska

Ms. Judith Bittner, SHPO, Alaska Department of Natural Resources, Office of History & Archeology, 550 West 7th Avenue, Suite 1310, Anchorage, AK 99501–3565, 907–269–8721 FAX: 907–269–8908, E-Mail: *judyb@dnr.state.ak.us*
Deputy: Joan Antonson, *www.dnr.state.ak.us/parks/oha_web*

American Samoa

Mr. John Enright, HPO, Executive Offices of the Governor, American Samoa Historic Preservation Office, American Samoa Government, Pago Pago, American Samoa 96799, 011–684–633–2384 FAX: 684–633–2367, E-Mail: *enright@samoatelco.com*
Deputy: Mr. David J. Herdrich, E-Mail: *herdrich@samoatelco.com*

Arizona

Mr. James W. Garrison, SHPO, Arizona State Parks, 1300 West Washington, Phoenix, AZ 85007, 602–542–4174 FAX: 602–542–4180, E-Mail: *jgarrison@pr.state.az.us*
Deputy: Ms. Carol Griffith, E-Mail: *cgriffith@pr.state.az.uswww.pr.state.az.us*

Arkansas

Ms. Cathryn B. Slater, SHPO, Arkansas Historic Preservation Program, 323 Center Street, Suite 1500, Little Rock, AR 72201, 501–324–9880 FAX: 501–324–9184, E-Mail: *cathy@dah.state.ar.us*
Deputy: Mr. Ken Grunewald, 501–324–9356, E-Mail: *keng@dah.state.ar.us*

California

Daniel Abeyta, Acting SHPO, Ofc of Hist Pres, Dept Parks & Recreation, P.O. Box 942896, Sacramento CA 94296–0001, 916–653–6624 FAX: 916–653–9824, E-Mail: *dabey@ohp.parks.ca.gov*
Deputy: *http://cal-parks.ca.gov*

Colorado

Ms. Georgianna Contiguglia, SHPO, Colorado Historical Society, 1300 Broadway, Denver, CO 80203, 303–866–3395 FAX: 303–866–4464,
Deputy: Mr. Mark Wolfe, 303–866–2776, FAX: 303–866–2041, E-Mail: *mark.wolfe@chs.state.co.us*
Deputy: Dr. Susan M. Collins, 303–866–2736, E-Mail: *susan.collins@chs.state.co.us*
Tech Ser: Ms. Kaaren Hardy, 303–866–3398, E-Mail: *kaaren.hardy@chs.state.co.uswww.coloradohistory-oahp.org*

Connecticut

Mr. John W. Shannahan, SHPO, Connecticut Historical Commission, 59 So. Prospect Street, Hartford, CT 06106, 860–566–3005 FAX: 860–566–5078, E-Mail: *cthist@neca.com*
Deputy: Dr. Dawn Maddox, Pres Programs Sup

Delaware

Mr. Daniel Griffith, SHPO, Division of Historical and Cultural Affairs, P.O. Box 1401, Dover, DE 19903, 302–739–5313 FAX: 302–739–6711, E-Mail: *dgriffith@state.de.us*
Deputy: Ms. Joan Larrivee, Delaware State Hist Preservation Office, 15 The Green, Dover, DE 19901, 302–739–5685 FAX: 302–739–5660, E-Mail: *jlarrivee@state.de.us*

District of Columbia

Mr. Gregory McCarthy, SHPO, Historic Preservation Division, Suite 305, 941 N. Capitol Street, NE., Room 2500, Washington, DC 20002, 202–442–4570 FAX: 202–442–4860, *www.dcra.org*
Deputy: Mr. Stephen J. Raiche

Florida

Dr. Janet Snyder Matthews, SHPO, Director, Div of Historical Resources, Dept of State, R. A. Gray Building, 4th Floor, 500 S. Bronough St., Tallahassee, FL 32399–0250, 850–488–1480 FAX 850–488–3353, E-Mail: *jmatthews@mail.dos.state.fl.us* 800–847–7278 *www.dos.state.fl.us/dhr/contents.html*

Georgia

Mr. Lonice C. Barrett, SHPO, Historic Preservation Division/DNR, 156 Trinity Avenue, SW, Suite 101, Atlanta, GA 30303–3600, 404–656–2840 FAX 404–651–8739
Deputy: Dr. W. Ray Luce, Director, E-Mail: *ray_luce@mail.dnr.state.ga.us*
Deputy: Ms. Carole Griffith, E-Mail: *carole_griffith@mail.dnr.state.ga.us*
Deputy: Mr. Richard Cloues, E-Mail: *richard_cloues@mail.dnr.state.ga.uswww.dnr. state.ga.us/dnr/histpres/*

Guam

Lynda B. Aguon, SHPO, Guam Historic Preservation Office, Department of Parks & Recreation, PO Box 2950 Building 13–8 Tiyan, Hagatna, Guam 96932, 1–671–475–6290 FAX: 1–671–477–2822, E-Mail: *laguon@mail.gov.gu http://www.admin.gov.gu/dpr/hrdhome.html*

Hawaii

Mr. Timothy Johns, SHPO, Department of Land & Natural Resources, P.O. Box 621, Honolulu, HI 96809, 808–587–0401
Deputy: Ms. Janet Kawelo,
Deputy: Dr. Don Hibbard, State Historic Preservation Division, Kakuhihewa Building, Suite 555, 601 Kamokila Boulevard, Kapolei, HI 96707, 808–692–8015 FAX: 808–692–8020, E-Mail: *dlnr@pixi.comwww.hawaii.gov/dlnr*

Idaho

Steve Guerber, SHPO, Idaho State Historical Society, 1109 Main Street, Suite 250, Boise, ID 83702–5642, 208–334–2682
Deputy: Suzi Neitzel, 208–334–3847 FAX: 208–334–2775, E-Mail: *sneitzel@ishs.state.id.us*
Deputy: Ken Reid, 208–334–3861

Illinois

Mr. William L. Wheeler, SHPO, Associate Director, Illinois Historic Preservation Agency, 1 Old State Capitol Plaza, Springfield, IL 62701–1512, 217–785–1153 FAX: 217–524–7525
Deputy: Mr. Theodore Hild, Chief of Staff, E-Mail: *thild@hpa084r1.state.il.us,*
Deputy: Ms. Anne Haaker

Indiana

Mr. Larry D. Macklin, SHPO, Director, Department of Natural Resources, 402 West Washington Street, Indiana Govt. Center South, Room W256, Indianapolis, IN 46204, E-Mail: *dhpa@dnr.state.in.us*
Deputy: Jon C. Smith, 317–232–1646 FAX: 317–232–0693, E-Mail: *jsmith@dnr.state.in.us*

Iowa

Mr. Tom Morain, SHPO, State Historical Society of Iowa, Capitol Complex, East 6th and Locust St., Des Moines, IA 50319, 515–281–5419 FAX: 515–242–6498, E-Mail: *shpo_iowa@nps.gov*
Ms. Patricia Ohlerking, DSHPO, 515–281–8824 FAX: 515–282–0502, *pohlerk@max.state.is.us*

Kansas

Dr. Ramon S. Powers, SHPO, Executive Director, Kansas State Historical Society, 6425 Southwest 6th Avenue, Topeka, KS 66615–1099, 785–272–8681 x205 FAX: 785–272–8682, E-Mail: *rpowers@hspo.wpo.state.ks.us*
Deputy: Mr. Richard D. Pankratz, Director, Historic Pres Dept 785–272–8681 x217
Deputy: Dr. Cathy Ambler, 785–272–8681 x215 E-Mail: *cambler@kshs.org*

Kentucky

Mr. David L. Morgan, SHPO, Executive Director, Kentucky Heritage Council, 300 Washington Street, Frankfort, KY 40601, 502–564–7005 FAX: 502–564–5820, E-Mail: *dmorgan@mail.state.ky.us*

Louisiana

Ms. Gerri Hobdy, SHPO, Dept of Culture, Recreation & Tourism, P.O. Box 44247, Baton Rouge, LA 70804, 225–342–8200 FAX 225–342–8173
Deputy: Mr. Robert Collins 225–342–8200, E-Mail: *rcollins@crt.state.la.us*
Deputy: Mr. Jonathan Fricker 225–342–8160, E-Mail: *jfricker@crt.state.la.us www.crt.state.la.us*

Maine

Mr. Earle G. Shettleworth, Jr., SHPO, Maine Historic Preservation Commission, 55 Capitol Street, Station 65, Augusta, ME 04333, 207–287–2132 FAX 207–287–2335, E-Mail: *earle.shettleworth@state.me.us*
Deputy: Dr. Robert L. Bradley *janus.state.me.us/mhpc/*

Marshall Islands, Republic of the

Mr. Fred deBrum, HPO, Secretary of Interior and Outer Islands Affairs, P.O. Box 1454, Majuro Atoll, Republic of the Marshall Islands 96960, 011–692–625–4642, FAX: 011–692–625–5353
Deputy: Clary Makroro, E-Mail: *rmihpo@ntamar.com*

Maryland

Mr. J. Rodney Little, SHPO, Maryland Historical Trust, 100 Community Place, Third Floor, Crownsville, MD 21032–2023, 410–514–7600 FAX 410–514–7678, E-Mail: *mdshpo@ari.net*
Deputy: Mr. William J. Pencek, Jr., *http://www.ari.net/mdshpo*

Massachusetts

Ms. Judith McDonough, SHPO, Massachusetts Historical Commission, 220 Morrissey Boulevard, Boston, MA 02125, 617–727–8470 FAX: 617–727–5128, TTD: 1–800–392–6090, E-Mail: *Judy.McDonough@sec.state.ma.us*
Deputy: Ms. Brona Simon, Dir Technical Servs E-Mail: *Brona.Simon@sec.state.ma.uswww. state.ma.us/sec/mhc*

Michigan

Brian D. Conway, SHPO, State Historic Preservation Office, Michigan Historical Center, 717 West Allegan Street, Lansing, MI 48918, 517–373–1630 FAX 517–335–0348, E-Mail: *conwaybd@sosmail.state.mi.us http://www.sos.state.mi.us/history/preserve/preserve.html*

Micronesia, Federated States Of

Mr. Rufino Mauricio, FSM HPO, Office of Administrative Services, Div of Archives and Historic Preservation, FSM National Government, P.O. Box PS 35, Palikir, Pohnpei, FM 96941, 011–691–320–2343 FAX: 691–320–5634, E-mail: *fsmhpo@mail.fm*
FSM includes four States, whose HPOs are listed below: Mr. John Tharngan, HPO, Yap Historic Preservation Office, Office of the Governor, PO Box 714, Colonia, Yap, FM 96943, 011–691–350–4226 FAX: 691–350–3898, E-Mail: *hpoyapfsm@mail.fm*
HPO, Div Land mgmt & Natural Resources, Department of Commerce & Industry, PO Box 280, Moen, Chuuk (Truk), FM 96942, 011–691–330–2552/2761 FAX: 691–330–4906, Mr. David W. Panuelo, HPO, Dir, Dept of Land, Pohnpei State Government, P.O. Box 1149, Kolonia, Pohnpei, FM 96941, 011–691–320–2611 FAX: 011–691–320–5599, E-Mail: *nahnsehleng@mail.fm*
Mr. Berlin Sigrah, Kosrae HPO, Div of Land Management & Preservation, Dept of Agriculture & Lands, PO Box 82, Kosrae, FM 96944, 011–691–370–3078 FAX: 011–691–370–3767, E-Mail: *dalu@mail.fm*

Minnesota

Dr. Nina Archabal, SHPO, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102–1906, 651–296–2747 FAX: 651–296–1004
Deputy: Dr. Ian Stewart, 651–297–5513,
Deputy: Ms. Britta L. Bloomberg, 651–296–5434 FAX: 651–282–2374, E-Mail: *britta.bloomberg@mnhs.org www.mnhs.org*

Mississippi

Mr. Elbert Hilliard, SHPO, Mississippi Dept of Archives & History, P.O. Box 571, Jackson, MS 39205–0571, 601–359–6850,
Deputy: Mr. Kenneth H. P'Pool, Division of Historic Preservation, 601–359–6940 FAX: 601–359–6955, *kppool@mdah.state.ms.us*

Missouri

Mr. Stephen Mahfood, SHPO, State Department of Natural Resources, 205 Jefferson, P.O. Box 176, Jefferson City, MO 65102, 573–751–4422 FAX: 573–751–7627
Deputy: Ms. Claire F. Blackwell, Historic Preservation Prog, Div of State Parks, 100 E. High Street, Jefferson City, MO 65101, 573–751–7858 FAX: 573–526–2852, E-Mail: *nrblacc@mail.dnr.state.us*
Deputy: Dr. Douglas K. Eiken, *www.mostateparks.com*

Montana

Dr. Mark F. Baumler, SHPO, State Historic Preservation Office, 1410 8th Avenue, P.O. Box 201202, Helena, MT 59620–1202, 406–444–7717 FAX 406–444–6575, E-Mail: *mbaumler@state.mt.us*
Deputy: Mr. Herbert E. Dawson, *www.hist.state.mt.us*

Nebraska

Mr. Lawrence Sommer, SHPO, Nebraska State Historical Society, P.O. Box 82554, 1500 R Street, Lincoln, NE 68501, 402–471–4745 FAX: 402–471–3100, E-Mail: *nshs@nebraskahistory.org*
Deputy: Mr. L. Robert Puschendorf, 402–471–4769 FAX: 402–471–3316

Nevada

Mr. Ronald James, SHPO, Historic Preservation Office, 100 N Stewart Street, Capitol Complex, Carson City, NV 89701–4285, 775–684–3440 FAX: 775–684–3442
Deputy: Ms. Alice Baldrica, 775–684–3444, E-Mail: *ambaldri@clan.lib.nv.us www.state.nv.us*

New Hampshire

Ms. Nancy C. Dutton, Director/SHPO, NH Division of Historical Resources, P.O. Box 2043, Concord, NH 03302–2043, 603–271–6435 FAX: 603–271–3433, TDD: 800–735–2964, E-Mail: *ndutton@nhdhr.state.nh.us*
Deputy: Ms. Linda Ray Wilson, 603–271–6434 or 603–271–3558, E-Mail: *lwilson@nhdhr.state.nh.us www.state.nh.us/nhdhr*

New Jersey

Mr. Robert C. Shinn, SHPO, Dept of Environ Protection, 401 East State Street, PO Box 402, Trenton, NJ 08625, 609–292–2885 FAX: 609–292–7695
Deputy: Mr. James Hall, Natural and Historic Resources, 501 East State Street, PO Box 404, Trenton, NJ 08625, 609–292–3541 FAX: 609–984–0836
Deputy: Ms. Dorothy Guzzo, Natural and Historic Resources, Historic Preservation Office, 609–984–0176 FAX: 609–984–0578, E-Mail: *dguzzo@dep.state.nj.us*

New Mexico

Elmo Baca, SHPO, Historic Preservation Div, Ofc of Cultural Affairs, 228 East Palace Avenue, Santa Fe, NM 87503, 505–827–6320 FAX: 505–827–6338
Deputy: Dorothy Victor, E-Mail: *dvictor@lvr.state.nm.us*
Deputy: Jan Biella, E-Mail: *jbiella@lvr.state.nm.us www.museums.state.nm.us/hpd*

New York

Ms. Bernadette Castro, SHPO, Parks, Recreation & Historic Preservation, Agency Building #1, Empire State Plaza, Albany, NY 12238, 518–474–0443
Deputy: Mr. J. Winthrop Aldrich, Deputy, 518–474–9113 FAX 518–474–4492
Historic Preservation Staff: Ms. Ruth L. Pierpont, Director, Bureau of Field Services, NY State Parks, Rec. & Hist. Pres., Peebles Island PO 189, Waterford, NY 12188–0189, 518–237–8643 x 3269 FAX 518–233–9049, E-Mail: *ruth.pierpont@oprhp.state.ny.us www.nysparks.com*

North Carolina

Dr. Jeffrey J. Crow, SHPO, Division of Archives & History, 4610 Mail Service Center, Raleigh, NC 27699–4610, 919–733–7305 FAX: 919–733–8807, E-Mail: *jcrow@ncsl.dcr.state.nc.us*
Deputy: Mr. David Brook, Historic Preservation Office, 4617 Mail Service Center, Raleigh, NC 27699–4617, 919–733–4763 FAX: 919–733–8653, E-Mail: *dbrook@ncsl.dcr.state.nc.us http://www.hpo.dcr.state.nc.us*

North Dakota

Mr. Samuel Wegner, SHPO, State Historical Society of North Dakota, 612 E. Boulevard Ave., Bismarck, ND 58505, 701–328–2666 FAX: 701–328–3710, *swegner@state.nd.us www.state.nd.us/hist*
Deputy: Mr. Merl Paaverud, 701–328–2672

Northern Mariana Islands, Commonwealth of the

Mr. Joseph P. DeLeon Guerrero, HPO, Dept of Community & Cultural Affairs, Division of Historic Preservation, Airport Road, Northern Mariana Islands, Saipan, MP 96950, 670–664–2125 FAX 670–664–2139, E-Mail: *cnmihpo@itecnmi.com*
Deputy: Mr. Scott Russell, 670–664–2121

Ohio

Mr. Amos J. Loveday, SHPO, Ohio Historic Preservation Office, 567 E Hudson Street, Columbus, OH 43211–1030, 614–297–2600 FAX: 614–297–2233, E-Mail: *ajloveday@aol.com*
Deputy: Mr. Franco Ruffini, 614–297–2470 FAX: 614–297–2496, E-Mail: *fruffini@ohiohistory.org www.ohiohistory.org/resource/histpres*

Oklahoma

Dr. Bob L. Blackburn, SHPO, Oklahoma Historical Society, 2100 N. Lincoln Blvd., Oklahoma City, OK 73105, 405–521–2491 FAX 405–521–2492, *www.ok-history.mus.ok.us*
Deputy: Ms. Melvena Thurman Heisch, State Historic Preservation Office, 2704 Villa Prom, Shepherd Mall, Oklahoma City, OK 73107 405–522–4484 FAX: 405–947–2918, E-Mail: *mheisch@ok-history.mus.ok.us*

Oregon

Mr. Michael Carrier, SHPO, State Parks & Recreation Department, 1115 Commercial Street, NE, Salem, OR 97301–1012, 503–378–5019 FAX 503–378–8936
Deputy: Mr. James Hamrick, 503–378–4168 x231 FAX 503–378–6447, E-Mail: *james.hamrick@ state.or.us www.prd.state.or.us/about_shpo.html*

Palau, Republic of

Ms. Victoria N. Kanai, HPO, Ministry of Community & Cultural Affairs, P.O. Box

100, Koror, Republic of Palau 96940, 011–680–488–2489 FAX: 680–488–2657

Pennsylvania

Dr. Brent D. Glass, SHPO, Pennsylvania Historical & Museum Comm, P.O. Box 1026, Harrisburg, PA 17108, 717–787–2891
Deputy: Ms. Brenda Barrett, Bur for Historic Pres, 717–787–4363 FAX: 717–772–0920, E-Mail: *brenda_barrett@ phmc.state.pa.us*

Puerto Rico, Commonwealth of

Ms. Lilliane D. Lopez, SHPO, Office of Historic Preservation, Box 82, La Fortaleza, Old San Juan, Puerto Rico 00901, 787–721–2676 or 3737 FAX 787–723–0957
Deputy: Berenice Sueiro, E-Mail: *bsueiro@prshpo.prstar.net*

Rhode Island

Mr. Frederick C. Williamson, SHPO, Rhode Island Historic Preservation & Heritage Comm, Old State House, 150 Benefit St., Providence, RI 02903, 401–222–2678 FAX: 401–222–2968
Deputy: Mr. Edward F. Sanderson, E-Mail: *rihphc@doa.state.ri.us*

South Carolina

Dr. Rodger E. Stroup, SHPO, Department of Archives & History, 8301 Parklane Road, Columbia, SC 29223–4905, 803–896–6100 FAX 803–896–6167
Deputy: Ms. Mary W. Edmonds, 803–896–6168, E-Mail: *edmonds@ scdah.state.sc.us http://www. state.sc.us/scdah/*

South Dakota

Mr. Jay D. Vogt, SHPO, State Historic Preservation Office, Cultural Heritage Center, 900 Governors Drive, Pierre, SD 57501, 605–773–3458 FAX 605–773–6041, E-Mail: *jay.vogt@state.sd.us http://www.state.sd.us/state/executive/deca/cultural/histpres.htm*

Tennessee

Mr. Milton Hamilton, SHPO, Dept of Environment and Conservation, 401 Church Street, L & C Tower 21st Floor, Nashville, TN 37243–0435, 615–532–0109 FAX: 615–532–0120
Deputy: Mr. Herbert L. Harper, Tennessee Historical Commission, 2941 Lebanon Road, Nashville, TN 37243–0442, 615–532–1550 FAX: 615–532–1549, *www.state.tn.us/environment/hist/hist.htm*

Texas

Mr. F. Lawerence Oaks, SHPO, Texas Historical Commission, P.O. Box 12276, Austin, TX 78711–2276, 512–463–6100 FAX: 512–475–4872, E-Mail: *l.oaks@thc.state.tx.us*
Deputy: Mr. James Wright Steely, Dir Nat'l Reg Prog, 512–463–5868 FAX: 512–475–3122, E-Mail: *jim.steely@thc.state.tx.us*
Deputy: Mr. Stanley O. Graves, Dir, Architecture Div, 512–463–6094 FAX: 512–463–6095, E-Mail: *stan.graves@thc.state.tx.us*
Deputy: Dr. James E. Bruseth, Dir Antiquities Prot, 512–463–6096 FAX: 512–463–8927, E-Mail: *jim.bruseth@thc.state.tx.us www.thc.state.tx.us*

Utah

Mr. Max Evans, SHPO, Utah State Historical Society, 300 Rio Grande, Salt Lake City, UT 84101, 801–533–3500 FAX: 801–533–3503
Deputy: Mr. Wilson Martin, E-Mail: *wmartin@history.state.ut.us http://history.utah.org*

Vermont

Ms. Emily Wadhams, SHPO, Vermont Division for Historic Preservation, National Life Building, Drawer 20, Montpelier, VT 05620–0501, 802–828–3211, E-Mail: *ewadhams@dca.state.vt.us*
Deputy: Mr. Eric Gilbertson, Director, 802–828–3043 FAX 802–828–3206, E-Mail: *ergilbertson@ dca.state.vt.uswww.state.vt.us/dca/historic/*

Virgin Islands

Mr. Dean C. Plaskett, Esq., SHPO, Department of Planning & Natural Resources, Cyril E. King Airport, Terminal Building—Second Floor, St. Thomas, VI 00802, 340–774–3320 FAX: 340–775–5706
Deputy: Ms. Claudette C. Lewis, 340–776–8605 FAX: 340–776–7236

Virginia

Mr. H. Alexander Wise, Jr, SHPO, Department of Historic Resources, 2801 Kensington Avenue, Richmond, VA 23221, 804–367–2323 FAX: 804–367–2391, E-Mail: *awise@dhr.state.va.us*
Deputy: Kathleen Kilpatrick

Washington

Dr. Allyson Brooks, SHPO, Ofc of Archeology & Historic Preservation, PO Box 48343, 420 Golf Club Road, SE, Suite 201, Lacey, Olympia, WA 98504–8343, 360–407–0753 FAX: 360–407–6217, *allysonb@acted.wa.gov*
Deputy: Mr. Greg Griffith, 360–407–0753, E-Mail: *gregg@cted.wa.gov*

West Virginia

Ms. Renay Conlin, SHPO, West Virginia Division of Culture & History, Historic Preservation Office, 1900 Kanawha Boulevard East, Charleston, WV 25305–0300, 304–558–0220 FAX: 304–558–2779, E-Mail: *renay.conlin@wvculture.org*
Deputy: Ms. Susan Pierce, E-Mail: *susan.pierce@wvculture.org*

Wisconsin

Mr. George L. Vogt, SHPO, State Historical Society of Wisconsin, 816 State Street, Madison WI 53706, 608–264–6500 FAX: 608–264–6404, E-Mail: *glvogt@mail.shsw.wisc.edu*
Deputy: Ms. Alicia L. Goehring, E-Mail: *algoehring@ mail.shsw.wisc. edu www.shsw.wisc.edu/ahi/index.html*

Wyoming

Ms. Wendy Bredehoft, SHPO, Wyoming State Hist. Pres. Ofc., 2301 Central Avenue, 4th Floor, Cheyenne, WY 82002, 307–777–7013 FAX 307–777–3543, E-Mail: *wbrede@missc.state.wy.us*
Deputy: Judy K. Wolf, 307–777–6311, E-Mail: *jwolf@missc.state.wy.us*
Sheila Bricher-Wade, Reg Ser 307–777–6179, E-Mail: *sbrich@missc.state.wy.us*
Mary M. Hopkins, Cult Records 307–766–5324, *http://commerce.state.wy.us/cr/shpo*

Associate Members:

Navajo Nation

Dr. Alan Downer, HPO, PO Box 4950, Window Rock, AZ 86515, 520–871–6437 FAX: 520–871–7886, E-Mail: *hpd_adowner@dine.navajo.org*

Lac Du Flambeau of Lake Superior Band Chippewa Indians

Ms. Patricia A. Hrabik Sebby, THPO, PO Box 67, Lac Du Flambeau, WI 54538, 715–588–3303

Leech Lake Band of Chippewa Indians

Ms. Rose A. Kluth, THPO, Leech Lake Reservation, RR3, Box 100, Cass Lake, MN 56633, 218–335–8200 FAX: 218–335–8309, E-Mail: *rkluth@aol.com*

Turtle Mountain Band of Chippewa Indians

Mr. Kade M. Ferris, THPO, Turtle Mountain Band of Chippewa Indians, PO Box 900, Belcourt, ND 58316, E-Mail: *kferris@utma.com*

National Governors= Association, National Alliance of Preservation Commissions, National Trust for Historic Preservation, Preservation Action

NCSHPO Officers, Board and Staff

President: Judith Bittner, Alaska, Vice President: H. Alexander Wise, Jr., Secretary: Judith McDonough, Massachusetts, Treasurer: Cathryn Slater, Arkansas
Directors: Brenda Barrett, Pennsylvania, Britta Bloomberg, Minnesota, Theodore Hild, Illinois, Wilson Martin, Utah, Amos Loveday, Ohio, Ken P'Pool, Mississippi, Daniel Abeyta, California, Dorothy Guzzo, New Jersey, Jay Vogt, South Dakota, F. Lawerence Oaks, Texas, Ted Sanderson, Rhode Island, Melvena Heisch, Oklahoma
Executive Director: Nancy Miller *nmncshpo@sso.org*
Office Manager: Anita Zepp *azncshpo@sso.org*
Senior Program Manager: Andra Reinholz *andra.reinholz@nps.gov*

National Park Service—National Center—*http://www.nps.gov/*

Associate Director, Cultural Resources, Kate Stevenson, 202–208–7625
Assistant Director & Manager, Cultural Resources, 202–343–9596
Archeology and Ethnography, Frank McManamon, Program Manager, 202–343–4101
HABS/HAER Division, E. Blaine Cliver, Chief, 202–343–9618
Heritage Preservation Services Program, Pat Tiller, Chief, 202–343–9569
Preservation Initiatives Branch, Bryan Mitchell, Chief, 202–343–9558
Technical Preservation Services Branch, Sharon Park, Chief, 202–343–9584,
State, Tribal & Local Programs Branch, Joe Wallis, Chief, 202–343–9564
Museum Management Program, Ann Hitchcock, Chief Curator, 202–343–9569
National Register, History & Education, Dwight Picaithley, Chief Historian, 202–343–9536
Keeper of the National Register of Historic Places, Carol Shull, 202–343–9536
Park Hist Struct/Cult Landscape Prg, Randall Biallas, Chief Historical Architect, 202–343–9588

National Park Service—Systems Support Offices

Anchorage, 907–257–2690, Philadelphia, 215–597–0652, Denver, 303–969–2875, Atlanta, 404–562–3157, San Francisco, 415–427–1300

Advisory Council on Historic Preservation—*http://www.achp.gov*

John Fowler, Executive Director, 202–606–8503, Ron Anzalone, Assistant to Executive Director, 202–606–8505, Don Klima, Director, Office of Planning & Review, Eastern and Western Regions, 202–606–8505

National Trust—*http://www.nthp.org*

Main Number—Washington, DC, 202–588–6000
Northeast Regional Office, Wendy Nicholas, Dir, 617–523–0885
Northeast Field Office, Patrick Hauck, Sr Prog Assoc, 215–991–5778
Southern Field Office, Lisa Burcham, Sr Prog Assoc, 202–588–6107
Southern Regional Office, John Hildreth, Dir, 843–722–8552
Midwest Regional Office, Jim Mann, Dir, 312–939–5547
Southwest Field Office, Jane Jenkins, Dir, 817–332–4398
Mountains/Plains Regional Office, Barbara Pahl, Dir, 303–623–1504
Western Regional Office, Elizabeth Goldstein, Dir, 415–956–0610

Preservation Action—*www.preservationaction.org*

Susan West Montgomery, President, 202–659–0915

Council on America's Military Past—*camphart1@aol.com*

Herbert M. Hart, Executive Director, 703–912–6124, Updated September 5, 2000

III. Tribal Historic Preservation Officers (THPO)

In instances where a Tribe does not have a Tribal Historic Preservation Officer, please contact the appropriate Tribal government office when responding to this permit eligibility condition.

Tribal Historic Preservation Officers:

(THPO vacant), Tunica-Biloxi Indians of Louisiana, P.O. Box 331, Marksville, LA 71351
James Bird, Eastern Band of Cherokee Indians, Quallah Boundary, P.O. Box 455, Cherokee, NC 28719
Brenda Boyd, Mille Lacs Band of Ojibwe Indians, HCR 67, Box 194, Onamia, MN 56395
John Brown, Narragansett Indian Tribe, P.O. Box 700, Wyoming, RI 02898
Marcia Cross, Confederated Salish and Kootenai Tribes, P.O. Box 278, Pablo, MT 59855
William Day, Poarch Band of Creek Indians, 5811 Jack Springs Rd., Atmore, AL 36502
Alan S. Downer, Ph.D., Historic Preservation Dept., Navajo Nation, P.O. Box 4950, Window Rock, AZ 86515
Kade M. Ferris, Turtle Mountain Band of Chippewa Indians, P.O. Box 900, Belcourt, ND 58316
Adeline Fredin, Confederated Tribes of the Colville Reservation, P.O. Box 150, Nespelem, WA 99155
Thomas Gates, Cultural Division, Yurok Tribe, 1034 6th St., Eureka, CA 95501
David Grignon, Menominee Indian Tribe of Wisconsin, P.O. Box 910, Keshena, WI 54135–0910
Monza V. Honga, Office of Cultural Resources, Hualapai Tribe, P.O. Box 310, Peach Springs, AZ 86434
Kelly Jackson, Lac du Flambeau, P.O. Box 67, Lac du Flambeau, WI 54538
Manfred (Fred) Jaenig, Confederated Tribes of the Umatilla Reservation, P.O. Box 638, Pendleton, OR 97801
Sebastian (Bronco) LeBeau, Cheyenne River Sioux Tribe, P.O. Box 590, Eagle Butte, SD 57625
Tim Mentz, Standing Rock Sioux Tribe, P.O. Box D, Fort Yates, ND 58538
Donna Stern-McFadden, Mescalero Apache Tribe, P.O. Box 227, Mescalero, New Mexico 88340
Scott E. Stuemke, Confederated Tribes of Warm Springs, Cultural Resources Department, P.O. Box C, Warm Springs, OR 97761
Matthew Vanderhoop, Wampanoag Tribe of Gay Head (Aquinnah), 20 Black Brook Road, Aquinnah, MA 02535–9701, Phone: (508) 645–9265, Fax: (508) 645–3790
John Welch, White Mt. Apache Tribe, P.O. Box 700, Whiteriver, AZ 85941, Phone: (520) 338–5430, Fax: (520) 338–5488
Gerald White, Leech Lake Band of Chippewa Indians, Route 3, Box 100, Cass Lake, MN 56633
Louie J. Wynne, Spokane Tribe of Indians, P.O. Box 100, Wellpinit, WA 99040
For more information: National Association of Tribal Historic Preservation Officers, D. Bambi Kraus, President, 1411 K Street NW, Suite 700, Washington, DC 20005, Phone: (202) 628–8476, Fax: (202) 628–2241

IV. Advisory Council on Historic Preservation

Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 809, Washington, DC 20004 Telephone: (202) 606–8503/8505, Fax: (202) 606–8647/8672, E-mail: achp@achp.gov

Addendum C—New Source Environmental Assessments

Basic Format for Environmental Assessment

This is the basic format for the Environmental Assessment prepared by EPA from the review of the applicant's Environmental Information Document (EID) required for new source NPDES permits. Comprehensive information should be provided for those items or issues that are affected; the greater the impact, the more detailed information needed. The EID should contain a brief statement addressing each item listed below, even if the item is not applicable. The statement should at least explain why the item is not applicable.

A. General Information
1. Name of applicant
2. Type of facility
3. Location of facility
4. Product manufactured

B. Description Summaries
1. Describe the proposed facility and construction activity
2. Describe all ancillary construction not directly involved with the production processes
3. Describe briefly the manufacturing processes and procedures
4. Describe the plant site, its history, and the general area

C. Environmental Concerns
1. Historical and Archeological (include a statement from the State Historical Preservation Officer)
2. Wetlands Protection and 100-year Floodplain Management (the Army Corps of Engineers must be contacted if any wetland area or floodplain is affected)
3. Agricultural Lands (a prime farmland statement from the Soil Conservation Service must be included)
4. Coastal Zone Management and Wild and Scenic Rivers
5. Endangered Species Protection and Fish and Wildlife Protection (a statement from the U.S. Fish and Wildlife Service must be included)
6. Air, Water and Land Issues: quality, effects, usage levels, municipal services used, discharges and emissions, runoff and wastewater control, geology and soils involved, land-use compatibility, solid and hazardous waste disposal, natural and man-made hazards involved.
7. Biota concerns: floral, faunal, aquatic resources, inventories and effects
8. Community Infrastructures available and resulting effects: social, economic, health, safety, educational, recreational, housing, transportation and road resources.

BILLING CODE 6560–50–P

Addendum D—Notice of Intent Form

NPDES Form 3510-6

EPA

United States Environmental Protection Agency
Washington, DC 20460

Form Approved
OMB No. 2040-0086

Notice of Intent for Storm Water Discharges Associated with INDUSTRIAL ACTIVITY Under the Multi-sector NPDES General Permit

Submission of this completed Notice of Intent (NOI) constitutes notice that the entitiy in Section B intends to be authorized to discharge pollutants to waters of the United States, from the facility or site identified in Section C, under EPA's Storm Water Multi-sector General Permit (MSGP). Submission of the NOI also constitutes notice that the party identified in Section B of this form has read, understands, and meets the eligibility conditions of Part I of the MSGP; agrees to comply with all applicable terms and conditions of the MSGP; understands that continued authorization under the MSGP is contigent on maintaining eligibility for coverage, and that implementation of the permittee's pollution prevention plan is required two days after a complete NOI is mailed. In order to be granted coverage, all information required on this form must be completed. Please read and make sure you comply with all permit requirements, including the requirement to prepare and implement a storm water pollution prevention plan.

A. Permit Selection
Permit number assigned to your facility under the previous permit: |_|_|_|_|_|_|_|_|

New Permit Number (EPA Use Only)
|_|_|R05|_|_|_|_|

B. Facility Operator Information

1. Name: |_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_| 2. Phone: |_|_|_|_|_|_|_|_|_|_|
3. Mailing Address: a. Street or P.O. Box: |_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
   b. City: |_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_| c. State: |_|_| d. Zip Code: |_|_|_|_|_|-|_|_|_|_|

C. Facility/Site Information

1. Facility/Site Name: |_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|

Instructions for Completing the Notice of Intent for Storm Water Discharges Associated with INDUSTRIAL ACTIVITY Under the Multi-sector General Permit

Who Must File a Notice of Intent?

Under the provisions of section 402(p) of the Clean Water Act (CWA) and regulations at 40 CFR Part 122, Federal law prohibits "point source" discharges of storm water associated with industrial activity to waters of the U.S. without a National Pollutant Discharge Elimination System (NPDES) permit. If you operate a facility which is described in Part 1.2.1. of the Multi-sector General Permit (MSGP) or if you have been designated as needing permit coverage for your storm water discharges by your NPDES permitting authority, and you meet the eligibility requirements in Part 1 of the permit, you may satisfy your CWA obligation for permit coverage by submitting a completed NOI to obtain coverage under the MSGP. If you have questions about whether you need a permit under the NPDES Storm Water Program, contact your NPDES permitting authority (i.e., your EPA Regional storm water coordinator or your State water pollution control agency).

One NOI must be submitted for each facility or site for which you are seeking permit coverage. Only one NOI need be submitted to apply for coverage for all of your activities at each facility (e.g., you do not need to submit a separate NOI for each type of industrial activity located at a facility or industrial complex, provided your storm water pollution prevention plan covers each area for which you are an operator). Finally, the NOI must be submitted in accordance with the deadlines established in Part 2.1 of the MSGP.

When to File the NOI Form

DO NOT FILE THE NOI UNTIL YOU HAVE OBTAINED A COPY OF THE MULTI-SECTOR GENERAL PERMIT. You will need it to determine your eligibility, prepare your storm water pollution prevention plan, and correctly answer all questions on the NOI form — all of which must be done before you can sign the certification statement on the NOI in good faith (and without risk of committing perjury).

If you have a new facility or are the new operator of an existing facility, this form must be postmarked at least 48 hours before you need permit coverage. If your facility was covered under the 1995 Multi-sector General Permit or if you are currently operating without a permit, see Part 2.1 of the MSGP for your deadlines. CAUTION: You must allow enough lead time to gather the information necessary to complete the NOI (especially that related to determining eligibility with regards to endangered species and historic properties) and prepare the pollution prevention plan required by Part 4 of the MSGP prior to submitting your NOI.

Where to File the NOI Form

NOIs must be sent to the following address (do not send Storm Water Pollution Prevention Plans (SWPPPs) to this address):

Storm Water Notice of Intent (4203)
U.S. EPA
1200 Pennsylvania Avenue, NW
Washington, DC 20460

(For overnight/express delivery of NOIs, add the phone number (202) 260-9541)

NOTE: While not currently available, EPA is exploring the possibility of offering the option to complete the NOI form electronically online via the Internet. If this option does become available, directions will be posted on EPA's web site. To check on the availability of the alternative Online NOI, please visit http://www.epa.gov/ow/sw. If the Online NOI is not available, you must file the NOI at the above address.

If your facility discharges through a municipal separate storm sewer system (MS4) that is permitted as a medium or large MS4 under the NPDES Storm Water Program, you must also submit a signed copy of the NOI to the operator of that MS4, in accordance with the deadlines established in Part 2.1 of the permit.

Completing the NOI Form

To complete this form, type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks (abbreviate if necessary to stay within the number of characters allowed for each item). Use one space for breaks between words. Please make sure you have addressed all applicable questions and have made a photocopy for your records before sending the completed form to the address above.

Section A. Permit Selection

You must indicate the NPDES storm water general permit under which you are applying for coverage. Find the generic permit "number" in Part 1.1 of the permit that covers the area where your facility is located. For example, if you are located in New Mexico (except Indian Country lands), the generic number would be NMR05*###. If you are located on Navajo lands in New Mexico, the generic permit number would be AZR05*##1. CAUTION: You must use the correct permit number or your permit coverage will be invalid since you are not located within the coverage area for that permit.

Section B. Facility Operator Information

1. Provide the legal name of the person, partnership, co-partnership, firm, company, corboration, association, joint stock company, trust, estate, governmental entity, or other legal entity that operates the facility or site described in this application. The name of the operator may or may not be the same as the name of the facility. The responsible party is the legal entity that controls the facility's operation, rather than the plant or site manager.
2. Provide the telephone number of the facility operator.
3. Provide the mailing address of the facility operator. Include the street address or P.O. Box, city, state, and zip code. All correspondence regarding the permit will be sent to this address, not the facility address in Section C.
4. Indicate the legal status of the facility operator as a Federal, State, Tribal private, or other public entity (other than Federal or State). This refers only to the operator, not the owner or the land the facility or site is located upon.

Section C. Facility/Site Information

1. Enter the official or legal name of the facility or site.
2. Enter the complete street address (if no street address exists, provide a geographic description [e.g., Intersection of Routes 9 and 55]), city county, state, and zip code. Do not use a P.O. Box.
3. Enter the latitude and longitude of the approximate center of the facility or site in degrees/minutes/seconds. Latitude and longitude can be obtained from U.S. Geological Survey (USGS quadrangle or topographic maps, by using a GPS unit, by calling 1-(888) ASK-USGS, by searching for your facility's address on several commercial "map" sites on the Internet, or by accessing EPA's web site at http://www.epa.gov/owm/sw/industry/index.htm and selecting Latitude and Longitude Finders under the Resources/Permit section.
4. Indicate whether the facility is located on Indian Country lands (e.g., a federally recognized reservation, etc,).
5. Indicate whether the facility or site discharges storm water into a receiving water(s) and/or a municipal separate storm sewer system (MS4). Enter the name(s) of the closest receiving water(s) and/or the MS4 (An MS4 is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by a state, city, town, borough, county, parish, district, association, or other public body and is designed or used for collecting or conveying storm water.)
6. List your primary and secondary four 4-digit Standard Industrial Classification (SIC) codes or 2-character Activity Codes that best describe the principal products or services provided at the facility or site identified in Section C of this application. For industrial activities defined in 40 CFR 122.26(b)(lf)(i)-(ix) and (xi) that do not have SIC codes that accurately describe the principal products produced or services provided, use the following 2-character Activity Codes:
   HZ = Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA [40 CFR 122.26(b)(lf)(iv)];
   LF = Landfills, land application sites, and open dumps that receive or have received any industrial wastes, including those that are subject to regulation under subtitle D of RCRA [40 CFR 122.26(b)(lf)(v)J;
   SE = Steam electric power generating facilities, including coal handling sites [40 CFR 122.26(b)(lf)(vii)];
   TW = Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage [40 CFR 122.26(b)(lf)(ix)]; or
   Alternatively, if your facility or site was specifically designated by your NPDES permitting authority (EPA), enter "**AD**."

Section D. Certification

Certification statement and signature. (CAUTION: An unsigned or undated NOI form will prevent the granting of permit coverage.) Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means:

(i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or

(ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipal, State, Federal, or other public facility: by either a principal executive or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this certification is estimated to average 3.7 hours per certification, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose to provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection.of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Director, Office of Environmental Information Services, Collection Services Division (2823), USEPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Include the OMB control number of this form on any correspondence. Do not send the completed NOI form to this address.

Addendum E—Notice of Termination Form

THIS FORM REPLACES PREVIOUS FORM 3510-7 (8-92)
Please See Instructions Before Completing This Form

Form Approved. OMB No. 2040-0086
Approval expires: 8-31-98

NPDES FORM

United States Environmental Protection Agency
Washington, DC 20460

Notice of Termination (NOT) of Coverage Under a NPDES General Permit for Storm Water Discharges Associated with Industrial Activity

Submission of this Notice of Termination constitutes notice that the party identified in Section II of this form is no longer authorized to discharge storm water associated with industrial activity under the NPDES program. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.

I. Permit Information

NPDES Storm Water General Permit Number: _____ Check Here if You are No Longer the Operator of the Facility: ☐ Check Here if the Storm Water Discharge is Being Terminated: ☐

II. Facility Operator Information

Name: _____ Phone: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

III. Facility/Site Location Information

Name: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

Latitude: _____ Longitude: _____ Quarter: _____ Section: _____ Township: _____ Range: _____

IV. Certification: I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by a NPDES general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the Clean Water Act.

Print Name: _____ Date: _____

Signature: _____

Instructions for Completing Notice of Termination (NOT) Form

Who May File a Notice of Termination (NOT) Form

Permittees who are presently covered under an EPA-issued National Poliutant Discharge Elimination System (NPDES) General Permit (including the 1995 Multi-Sector Permit) for Storm Water Dicharges Associated with Industrial Activity may submit a Notice of Termination (NOT) form when their facilities no longer have any storm water discharges associated with industrial activity as defined in the storm water regulations at 40 CFR 122.26(b)(14), or when they are no longer the operator of the facilities.

For construction activities, elimination of all storm water discharges associated with industrial activity occurs when disturbed soils at the construction site have been finally stabilized and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time, or that all storm water discharges associated with industrial activity from the construction site that are authorized by a NPDES general permit have otherwise been eliminated. Final stabilization means that all soil-disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Where to File NOT Form

Send this form to the the following address:

Storm Water Notice of Termination (4203)
401 M Street, S.W.
Washington, DC 20460

Completing the Form

Type or print, using upper-case letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use only one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions about this form, telephone or write the Notice of Intent Processing Center at (703) 931-3230.

EPA Form 3510-7 (8-98)

Instructions - EPA Form 3510-7
Notice of Termination (NOT) of Coverage Under The NPDES General Permit for Storm Water Discharges Associated With Industrial Activity

Section I Permit Information

Enter the existing NPDES Storm Water General Permit number assigned to the facility or site identified in Section III. If you do not know the permit number, telephone or write your EPA Regional storm water contact person.

Indicate your reason for submitting this Notice of Termination by checking the appropriate box:

If there has been a change of operator and you are no longer the operator of the facility or site identified in Section III, check the corresponding box.

If all storm water discharges at the facility or site identified in Section III have been terminated, check the corresponding box.

Section II Facility Operator Information

Give the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this application. The name of the operator may or may not be the same name as the facility. The operator of the facility is the legal entity which controls the facility's operation, rather than the plant or site manager. Do not use a colloquial name. Enter the complete address and telephone number of the operator.

Section III Facility/Site Location Information

Enter the facility's or site's official or legal name and complete address, including city, state and ZIP code. If the facility lacks a street address, indicate the state, the latitude and longitude of the facility to the nearest 15 seconds, or the quarter, section, township, and range (to the nearest quarter section) of the approximate center of the site.

Section IV Certification

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipality, State, Federal, or other public facility: by either a principal executive officer or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 0.5 hours per application, 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, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, 2136, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or Director, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Addendum F—No Exposure Certification Form

NPDES FORM 3510-11

United States Environmental Protection Agency
Washington, DC 20460

Form Approved
OMB No. 2040-0211

NO EXPOSURE CERTIFICATION for Exclusion from NPDES Storm Water Permitting

Submission of this No Exposure Certification constitutes notice that the entity identified in Section A does not require permit authorization for its storm water discharges associated with industrial activity in the State identified in Section B under EPA's Storm Water Multi-Sector General Permit due to the existence of a condition of no exposure.

A condition of no exposure exists at an industrial facility when all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product. A storm resistant shelter is not required for the following industrial materials and activities:

- drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak. "Sealed" means banded or otherwise secured and without operational taps or valves;
- adequately maintained vehicles used in material handling; and
- final products, other than products that would be mobilized in storm water discharges (e.g., rock salt).

A No Exposure Certification must be provided for each facility qualifying for the no exposure exclusion. In addition, the exclusion from NPDES permitting is available on a facility-wide basis only, not for individual outfalls. If any industrial activities or materials are or will be exposed to precipitation, the facility is not eligible for the no exposure exclusion.

By signing and submitting this No Exposure Certification form, the entity in Section A is certifying that a condition of no exposure exists at its facility or site, and is obligated to comply with the terms and conditions of 40 CFR 122.26(g).

ALL INFORMATION MUST BE PROVIDED ON THIS FORM.

Detailed instructions for completing this form and obtaining the no exposure exclusion are provided on pages 3 and 4.

A. Facility Operator Information

1. Name: _____ 2. Phone: _____
3. Mailing Address: a. Street: _____
   b. City: _____ c. State: _____ d. Zip Code: _____

B. Facility/Site Location Information

1. Facility Name: _____
2. a. Street Address: _____
   b. City: _____ c. County: _____
   d. State: _____ e. Zip Code: _____
3. Is the facility located on Indian Lands? Yes ☐ No ☐
4. Is this a Federal facility? Yes ☐ No ☐
5. a. Latitude: _____ ° _____ ' _____ " b. Longitude: _____ ° _____ ' _____ "
6. a. Was the facility or site previously covered under an NPDES storm water permit? Yes ☐ No ☐
   b. If yes, enter NPDES permit number: _____
7. SIC/Activity Codes: Primary: _____ Secondary (if applicable): _____
8. Total size of site associated with industrial activity: _____ acres
9. a. Have you paved or roofed over a formerly exposed, pervious area in order to qualify for the no exposure exclusion? Yes ☐ No ☐
   b. If yes, please indicate approximately how much area was paved or roofed over. Completing this question does not disqualify you for the no exposure exclusion. However, your permitting authority may use this information in considering whether storm water discharges from your site are likely to have an adverse impact on water quality, in which case you could be required to obtain permit coverage.

   Less than one acre ☐ One to five acres ☐ More than five acres ☐

NPDES FORM 3510-11	EPA	**NO EXPOSURE CERTIFICATION for Exclusion from NPDES Storm Water Permitting**	Form Approved OMB No. 2040-0211

C. Exposure Checklist

Are any of the following materials or activities exposed to precipitation, now or in the foreseeable future? (Please check either "Yes" or "No" in the appropriate box.) **If you answer "Yes" to any of these questions (1) through (11), you are not eligible for the no exposure exclusion.**

	Yes	No
1. Using, storing or cleaning industrial machinery or equipment, and areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to storm water	☐	☐
2. Materials or residuals on the ground or in storm water inlets from spills/leaks	☐	☐
3. Materials or products from past industrial activity	☐	☐
4. Material handling equipment (except adequately maintained vehicles)	☐	☐
5. Materials or products during loading/unloading or transporting activities	☐	☐
6. Materials or products stored outdoors (except final products intended for outside use [e.g., new cars] where exposure to storm water does not result in the discharge of pollutants)	☐	☐
7. Materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers	☐	☐
8. Materials or products handled/stored on roads or railways owned or maintained by the discharger	☐	☐
9. Waste material (except waste in covered, non-leaking containers [e.g., dumpsters])	☐	☐
10. Application or disposal of process wastewater (unless otherwise permitted)	☐	☐
11. Particulate matter or visible deposits of residuals from roof stacks and/or vents not otherwise regulated (i.e., under an air quality control permit) and evident in the storm water outflow	☐	☐

D. Certification Statement

I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of "no exposure" and obtaining an exclusion from NPDES storm water permitting.

I certify under penalty of law that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility or site identified in this document (except as allowed under 40 CFR 122.26(g)(2)).

I understand that I am obligated to submit a no exposure certification form once every five years to the NPDES permitting authority and, if requested, to the operator of the local municipal separate storm sewer system (MS4) into which the facility discharges (where applicable). I understand that I must allow the NPDES permitting authority, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an NPDES permit prior to any point source discharge of storm water from the facility.

Additionally, I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: _____

Print Title: _____

Signature: _____

Date: _____

NPDES FORM 3510-11

EPA

Instructions for the NO EXPOSURE CERTIFICATION for Exclusion from NPDES Storm Water Permitting

Form Approved OMB No. 2040-0211

Who May File a No Exposure Certification

Federal law at 40 CFR Part 122.26 prohibits point source discharges of storm water associated with industrial activity to waters of the U.S. without a National Pollutant Discharge Elimination System (NPDES) permit. However, NPDES permit coverage is not required for discharges of storm water associated with industrial activities identified at 40 CFR 122.26(b)(14)(i)-(ix) and (xi) if the discharger can certify that a condition of "no exposure" exists at the industrial facility or site.

Storm water discharges from construction activities identified in 40 CFR 122.26(b)(14)(x) and (b)(15) are not eligible for the no exposure exclusion.

Obtaining and Maintaining the No Exposure Exclusion

This form is used to certify that a condition of no exposure exists at the industrial facility or site described herein. This certification is only applicable in jurisdictions where EPA is the NPDES permitting authority and must be re-submitted at least once every five years.

The industrial facility operator must maintain a condition of no exposure at its facility or site in order for the no exposure exclusion to remain applicable. If conditions change resulting in the exposure of materials and activities to storm water, the facility operator must obtain coverage under an NPDES storm water permit immediately.

Where to File the No Exposure Certification Form

Mail the completed no exposure certification form to:

Storm Water No Exposure Certification (4203)
USEPA
401 M Street, SW
Washington, D.C. 20460

Completing the Form

You must type or print, using uppercase letters, in appropriate areas only. Enter only one character per space (i.e., between the marks). Abbreviate if necessary to stay within the number of characters allowed for each item. Use one space for breaks between words. One form must be completed for each facility or site for which you are seeking to certify a condition of no exposure. Additional guidance on completing this form can be accessed through EPA's web site at www.epa.gov/owm/sw. Please make sure you have addressed all applicable questions and have made a photocopy for your records before sending the completed form to the above address.

Section A. Facility Operator Information

1. Provide the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this certification. The name of the operator may or may not be the same as the name of the facility. The operator is the legal entity that controls the facility's operation, rather than the plant or site manager.

2. Provide the telephone number of the facility operator.

3. Provide the mailing address of the operator (P.O. Box numbers may be used). Include the city, state, and zip code. All correspondence will be sent to this address.

Section B. Facility/Site Location Information

1. Enter the official or legal name of the facility or site.

2. Enter the complete street address (if no street address exists, provide a geographic description [e.g., Intersection of Routes 9 and 55]), city, county, state, and zip code. Do not use a P.O. Box number.

3. Indicate whether the facility is located on Indian Lands.

4. Indicate whether the industrial facility is operated by a department or agency of the Federal Government (see also Section 313 of the Clean Water Act).

5. Enter the latitude and longitude of the approximate center of the facility or site in degrees/minutes/seconds. Latitude and longitude can be obtained from United States Geological Survey (USGS) quadrangle or topographic maps, by calling 1-(888) ASK-USGS, or by accessing EPA's web site at http://www.epa.gov/owm/sw/industry/index.htm and selecting Latitude and Longitude Finders under the Resources/Permit section.

   Latitude and longitude for a facility in decimal form must be converted to degrees (°), minutes ('), and seconds (") for proper entry on the certification form. To convert decimal latitude or longitude to degrees/minutes/seconds, follow the steps in the following example.

   Example: Convert decimal latitude 45.1234567 to degrees (°), minutes ('), and seconds (").

   a) The numbers to the left of the decimal point are the degrees: 45°.

   b) To obtain minutes, multiply the first four numbers to the right of the decimal point by 0.006: 1234 x 0.006 = 7.404.

   c) The numbers to the left of the decimal point in the result obtained in (b) are the minutes: 7'.

   d) To obtain seconds, multiply the remaining three numbers to the right of the decimal from the result obtained in (b) by 0.06: 404 x 0.06 = 24.24. Since the numbers to the right of the decimal point are not used, the result is 24".

   e) The conversion for 45.1234567 = 45° 7' 24".

6. Indicate whether the facility was previously covered under an NPDES storm water permit. If so, include the permit number.

7. Enter the 4-digit SIC code which identifies the facility's primary activity, and second 4-digit SIC code identifying the facility's secondary activity, if applicable. SIC codes can be obtained from the Standard Industrial Classification Manual, 1987.

8. Enter the total size of the site associated with industrial activity in acres. Acreage may be determined by dividing square footage by 43,560, as demonstrated in the following example.

   Example: Convert 54,450 ft^2 to acres

   Divide 54,450 ft^2 by 43,560 square feet per acre:
   54,450 ft^2 ÷ 43,560 ft^2/acre = 1.25 acres.

9. Check "Yes" or "No" as appropriate to indicate whether you have paved or roofed over a formerly exposed, pervious area (i.e., lawn, meadow, dirt or gravel road/parking lot) in order to qualify for no exposure. If yes, also indicate approximately how much area was paved or roofed over and is now impervious area.

NPDES FORM 3510-11 | EPA

Instructions for the NO EXPOSURE CERTIFICATION for Exclusion from NPDES Storm Water Permitting

Form Approved OMB No. 2040-0211

Section C. Exposure Checklist

Check "Yes" or "No" as appropriate to describe the exposure conditions at your facility. If you answer "Yes" to **ANY** of the questions (1) through (11) in this section, a potential for exposure exists at your site and you cannot certify to a condition of no exposure. You must obtain (or already have) coverage under an NPDES storm water permit. After obtaining permit coverage, you can institute modifications to eliminate the potential for a discharge of storm water exposed to industrial activity, and then certify to a condition of no exposure.

Section D. Certification Statement

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means:

(i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or

(ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipal, State, Federal, or other public facility: by either a principal executive or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this certification is estimatedto average 1.0 hour per certification, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose to provide information to or for a Federal agency This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Director, Office of Environmental Services, Collection Services Division (2823), USEPA, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Include the OMB control number of this form on any correspondence. Do not send the completed No Exposure Certification form to this address.

[FR Doc. 00–25469 Filed 10–27–00; 8:45 am]
BILLING CODE 6560–50–C

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Federal Register

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Commodity Credit Corporation

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- Peanuts; published 10-30-00

AGRICULTURE DEPARTMENT

Farm Service Agency

Farm marketing quotas, acreage allotments, and production adjustments:
- Peanuts; published 10-30-00

AGRICULTURE DEPARTMENT

Rural Business-Cooperative Service

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- Domestic lamb industry adjustment assistance program set aside; published 10-30-00

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Guaranteed loanmaking:
- Domestic lamb industry adjustment assistance program set aside; published 10-30-00

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- Polymers and resins—
  - Compliance date (Group IV); indefinite stay; published 8-29-00

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- California; published 8-29-00
- Indiana; published 8-29-00

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- Oregon; published 8-31-00

Superfund program:
- National oil and hazardous substances contingency plan—
  - National priorities list; published 10-30-00
  - National priorities list update; published 8-31-00

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Competitive bidding procedures for all auctionable services; published 8-29-00

Radio frequency devices:
- Digital television receivers; closed captioning requirements; published 9-29-00

Radio stations; table of assignments:
- California; published 9-26-00
- Colorado; published 9-28-00
- Georgia; published 9-26-00
- Hawaii; published 9-28-00
- Indiana; published 9-28-00
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- Missouri; correction; published 10-11-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Children and Families Administration

Personal Responsibility and Work Opportunity Reconciliation Act of 1996; implementation:
- Temporary Assistance for Needy Families Program—
  - High performance bonus rewards to States; published 8-30-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

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- Polydextrose; published 10-30-00

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- Food labeling—
  - Dietary supplements; effect on structure or function of body; types of statements, definition; partial stay; published 9-29-00
- Irradiation in production, processing, and handling of food—
  - Microbial pathogens in seeds for sprouting; published 10-30-00

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AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Animal welfare:
- Pain and distress; definitions and reporting; comments due by 11-7-00; published 8-21-00

Plant-related quarantine, domestic:
- Citrus canker; comments due by 11-6-00; published 9-5-00

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Loan and purchase programs:
- Production flexibility contracts; contract violations and diminution in payments; fruits and vegetables planting payment reduction; comments due by 11-6-00; published 10-6-00

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Child nutrition programs:
- Women, infants, and children; special supplemental nutrition program—
  - Public Responsibility and Work Opportunity Reconciliation Act of 1996; WIC mandates implementation; comments due by 11-6-00; published 9-5-00

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Northeastern United States fisheries—
  - Atlantic mackerel, squid, and butterfish; comments due by 11-9-00; published 10-10-00
- West Coast States and Western Pacific fisheries—
  - Pacific Coast groundfish; comments due by 11-7-00; published 9-8-00

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Higher education institutions, hospitals, and other non-profit organizations; grants and agreements; uniform administrative requirements; comments due by 11-6-00; published 9-5-00

DEFENSE DEPARTMENT

Army Department

Environmental quality:
- National Environmental Policy Act; implementation; comments due by 11-6-00; published 9-7-00

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):
- Forced or indentured child labor, products produced by; prohibition of acquisition; comments due by 11-6-00; published 9-6-00

Privacy Act; implementation; comments due by 11-6-00; published 9-6-00

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Nuclear safety management; contractor- and government-operated nuclear facilities; comments due by 11-9-00; published 10-10-00

ENVIRONMENTAL PROTECTION AGENCY

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- Stratospheric ozone protection—
  - Essential use allowances; allocation; comments due by 11-6-00; published 10-6-00

Air quality implementation plans; approval and promulgation; various States:
- District of Columbia; comments due by 11-9-00; published 10-19-00
- Maryland; comments due by 11-9-00; published 10-19-00
- Maryland and Virginia; comments due by 11-9-00; published 10-19-00
- Montana; comments due by 11-9-00; published 10-10-00
- Virginia; comments due by 11-6-00; published 10-6-00

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- National Pollutant Discharge Elimination System—
  - Cooling water intake structures for new facilities; comments due by 11-9-00; published 8-31-00

Water pollution; effluent guidelines for point source categories:
- Publicly owned treatment works; pretreatment program reinvention projects under Project XL; comments due by 11-6-00; published 10-6-00

FEDERAL COMMUNICATIONS COMMISSION

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- New York; comments due by 11-6-00; published 9-26-00

Texas; comments due by 11-6-00; published 10-4-00

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Flood insurance program:

Letters of Map Revision Based on Fill; requests; comments due by 11-9-00; published 10-10-00

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Trade regulation rules:

Franchising and business opportunity ventures; disclosure requirements and prohibitions; comments due by 11-6-00; published 9-6-00

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Forced or indentured child labor, products produced by; prohibition of acquisition; comments due by 11-6-00; published 9-6-00

GOVERNMENT ETHICS OFFICE

Standards of ethical conduct for Executive Branch employees; comments due by 11-6-00; published 9-5-00

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HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Presubmission conferences; comments due by 11-8-00; published 8-25-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicaid:

Hospital, nursing facility, intermediate care facility, and mentally retarded and clinic services; upper payment limit requirements modification; comments due by 11-9-00; published 10-10-00

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Housing assistance payments (Section 8)—

Fair market rent schedules for Housing Choice Voucher Program; comments due by 11-6-00; published 10-6-00

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Indian Affairs Bureau

Financial activities:

Loan guaranty, insurance, and interest subsidy; revision; comments due by 11-6-00; published 9-6-00

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Immigration:

Second preference employment-based immigrant physicians serving in medically underserved areas, etc.; national interest waivers; comments due by 11-6-00; published 9-6-00

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Federal Acquisition Regulation (FAR):

Forced or indentured child labor, products produced by; prohibition of acquisition; comments due by 11-6-00; published 9-6-00

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Disadvantaged entrepreneurs; training and technical assistance grants; comments due by 11-9-00; published 10-10-00

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Executing passport application on behalf of minor; procedures; comments due by 11-6-00; published 10-10-00

Visas; immigrant and nonimmigrant documention:

Immigrant visa fees; change in payment procedures; comments due by 11-7-00; published 9-8-00

TRANSPORTATION DEPARTMENT

Coast Guard

Ports and waterways safety:

Portage River and Lily Pond Harbor, MI; inland waterways navigation regulation removed; comments due by 11-6-00; published 9-5-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

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Agusta S.p.A.; comments due by 11-6-00; published 9-22-00

Allison Engine Co.; comments due by 11-6-00; published 9-7-00

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Pilatus Aircraft Ltd.; comments due by 11-7-00; published 10-2-00

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Rolls-Royce plc; comments due by 11-6-00; published 9-7-00

Class E airspace; comments due by 11-6-00; published 9-21-00

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Foreign trusts that have U.S. beneficiaries; comments due by 11-6-00; published 8-7-00

Recognition of gain on certain transfers to certain foreign trusts and estates; comments due by 11-6-00; published 8-7-00

TREASURY DEPARTMENT

Thrift Supervision Office

Mutual savings associations, mutual holding company reorganizations, and conversions from mutual to stock form; comments due by 11-9-00; published 10-10-00

Repurchases of stock by recently-converted savings associations, mutual holding company dividend waivers, and Gramm-Leach-Biley Act changes; comments due by 11-9-00; published 10-10-00

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 1509/P.L. 106–348

To authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs to honor veterans who became disabled while serving in the Armed Forces of the United States. (Oct. 24, 2000; 114 Stat. 1358)

H.R. 3201/P.L. 106–349

Carter G. Woodson Home National Historic Site Study Act of 2000 (Oct. 24, 2000; 114 Stat. 1359)

H.R. 3632/P.L. 106–350

Golden Gate National Recreation Area Boundary Adjustment Act of 2000 (Oct. 24, 2000; 114 Stat. 1361)

H.R. 3676/P.L. 106–351

Santa Rosa and San Jacinto Mountains National Monument Act of 2000 (Oct. 24, 2000; 114 Stat. 1362)

H.R. 4063/P.L. 106–352

Rosie the Riveter/World War II Home Front National Historical Park Establishment Act of 2000 (Oct. 24, 2000; 114 Stat. 1370)

H.R. 4275/P.L. 106–353

Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 (Oct. 24, 2000; 114 Stat. 1374)

H.R. 4386/P.L. 106–354

Breast and Cervical Cancer Prevention and Treatment Act of 2000 (Oct. 24, 2000; 114 Stat. 1381)

H.R. 4613/P.L. 106–355

National Historic Lighthouse Preservation Act of 2000 (Oct. 24, 2000; 114 Stat. 1385)

H.R. 5036/P.L. 106–356

Dayton Aviation Heritage Preservation Amendments Act of 2000 (Oct. 24, 2000; 114 Stat. 1391)

S. 1849/P.L. 106–357

White Clay Creek Wild and Scenic Rivers System Act (Oct. 24, 2000; 114 Stat. 1393)

H.J. Res. 115/P.L. 106–358

Making further continuing appropriations for the fiscal

year 2001, and for other purposes. (Oct. 26, 2000; 114 Stat. 1397)

H.J. Res. 116/P.L. 106–359
Making further continuing appropriations for the fiscal year 2001, and for other purposes. (Oct. 26, 2000; 114 Stat. 1398)

Last List October 26, 2000

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–038–00001–3)	6.50	Apr. 1, 2000
3 (1997 Compilation and Parts 100 and 101)	(869–042–00002–1)	22.00	[1] Jan. 1, 2000
4	(869–042–00003–0)	8.50	Jan. 1, 2000
5 Parts:			
1–699	(869–042–00004–8)	43.00	Jan. 1, 2000
700–1199	(869–042–00005–6)	31.00	Jan. 1, 2000
1200–End, 6 (6 Reserved)	(869–042–00006–4)	48.00	Jan. 1, 2000
7 Parts:			
1–26	(869–042–00007–2)	28.00	Jan. 1, 2000
27–52	(869–042–00008–1)	35.00	Jan. 1, 2000
53–209	(869–042–00009–9)	22.00	Jan. 1, 2000
210–299	(869–042–00010–2)	54.00	Jan. 1, 2000
300–399	(869–042–00011–1)	29.00	Jan. 1, 2000
400–699	(869–042–00012–9)	41.00	Jan. 1, 2000
700–899	(869–042–00013–7)	37.00	Jan. 1, 2000
900–999	(869–042–00014–5)	46.00	Jan. 1, 2000
1000–1199	(869–042–00015–3)	18.00	Jan. 1, 2000
1200–1599	(869–042–00016–1)	44.00	Jan. 1, 2000
1600–1899	(869–042–00017–0)	61.00	Jan. 1, 2000
1900–1939	(869–042–00018–8)	21.00	Jan. 1, 2000
1940–1949	(869–042–00019–6)	37.00	Jan. 1, 2000
1950–1999	(869–042–00020–0)	38.00	Jan. 1, 2000
2000–End	(869–042–00021–8)	31.00	Jan. 1, 2000
8	(869–042–00022–6)	41.00	Jan. 1, 2000
9 Parts:			
1–199	(869–042–00023–4)	46.00	Jan. 1, 2000
200–End	(869–042–00024–2)	44.00	Jan. 1, 2000
10 Parts:			
1–50	(869–042–00025–1)	46.00	Jan. 1, 2000
51–199	(869–042–00026–9)	38.00	Jan. 1, 2000
200–499	(869–042–00027–7)	38.00	Jan. 1, 2000
500–End	(869–042–00028–5)	48.00	Jan. 1, 2000
11	(869–042–00029–3)	23.00	Jan. 1, 2000
12 Parts:			
1–199	(869–042–00030–7)	18.00	Jan. 1, 2000
200–219	(869–042–00031–5)	22.00	Jan. 1, 2000
220–299	(869–042–00032–3)	45.00	Jan. 1, 2000
300–499	(869–042–00033–1)	29.00	Jan. 1, 2000
500–599	(869–042–00034–0)	26.00	Jan. 1, 2000
600–End	(869–042–00035–8)	53.00	Jan. 1, 2000
13	(869–042–00036–6)	35.00	Jan. 1, 2000
14 Parts:			
1–59	(869–042–00037–4)	58.00	Jan. 1, 2000
60–139	(869–042–00038–2)	46.00	Jan. 1, 2000
140–199	(869–038–00039–1)	17.00	[4] Jan. 1, 2000
200–1199	(869–042–00040–4)	29.00	Jan. 1, 2000
1200–End	(869–042–00041–2)	25.00	Jan. 1, 2000
15 Parts:			
0–299	(869–042–00042–1)	28.00	Jan. 1, 2000
300–799	(869–042–00043–9)	45.00	Jan. 1, 2000
800–End	(869–042–00044–7)	26.00	Jan. 1, 2000
16 Parts:			
0–999	(869–042–00045–5)	33.00	Jan. 1, 2000
1000–End	(869–042–00046–3)	43.00	Jan. 1, 2000
17 Parts:			
1–199	(869–042–00048–0)	32.00	Apr. 1, 2000
200–239	(869–042–00049–8)	38.00	Apr. 1, 2000
240–End	(869–042–00050–1)	49.00	Apr. 1, 2000
18 Parts:			
1–399	(869–042–00051–0)	54.00	Apr. 1, 2000
400–End	(869–042–00052–8)	15.00	Apr. 1, 2000
19 Parts:			
1–140	(869–042–00053–6)	40.00	Apr. 1, 2000
141–199	(869–042–00054–4)	40.00	Apr. 1, 2000
200–End	(869–042–00055–2)	20.00	Apr. 1, 2000
20 Parts:			
1–399	(869–042–00056–1)	33.00	Apr. 1, 2000
400–499	(869–042–00057–9)	56.00	Apr. 1, 2000
500–End	(869–042–00058–7)	58.00	Apr. 1, 2000
21 Parts:			
1–99	(869–042–00059–5)	26.00	Apr. 1, 2000
100–169	(869–042–00060–9)	30.00	Apr. 1, 2000
170–199	(869–042–00061–7)	29.00	Apr. 1, 2000
200–299	(869–042–00062–5)	13.00	Apr. 1, 2000
300–499	(869–042–00063–3)	20.00	Apr. 1, 2000
500–599	(869–042–00064–1)	31.00	Apr. 1, 2000
600–799	(869–038–00065–0)	10.00	Apr. 1, 2000
800–1299	(869–042–00066–8)	38.00	Apr. 1, 2000
1300–End	(869–042–00067–6)	15.00	Apr. 1, 2000
22 Parts:			
1–299	(869–042–00068–4)	54.00	Apr. 1, 2000
300–End	(869–042–00069–2)	31.00	Apr. 1, 2000
23	(869–042–00070–6)	29.00	Apr. 1, 2000
24 Parts:			
0–199	(869–042–00071–4)	40.00	Apr. 1, 2000
200–499	(869–042–00072–2)	37.00	Apr. 1, 2000
500–699	(869–042–00073–1)	20.00	Apr. 1, 2000
700–1699	(869–042–00074–9)	46.00	Apr. 1, 2000
1700–End	(869–042–00075–7)	18.00	[5] Apr. 1, 2000
25	(869–042–00076–5)	52.00	Apr. 1, 2000
26 Parts:			
§§ 1.0-1–1.60	(869–042–00077–3)	31.00	Apr. 1, 2000
§§ 1.61–1.169	(869–042–00078–1)	56.00	Apr. 1, 2000
§§ 1.170–1.300	(869–042–00079–0)	38.00	Apr. 1, 2000
§§ 1.301–1.400	(869–042–00080–3)	29.00	Apr. 1, 2000
§§ 1.401–1.440	(869–042–00081–1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869-042-00082-0)	36.00	Apr. 1, 2000
§§ 1.501–1.640	(869–042–00083–8)	32.00	Apr. 1, 2000
§§ 1.641–1.850	(869–042–00084–6)	41.00	Apr. 1, 2000
§§ 1.851–1.907	(869–042–00085–4)	43.00	Apr. 1, 2000
§§ 1.908–1.1000	(869–042–00086–2)	41.00	Apr. 1, 2000
§§ 1.1001–1.1400	(869–042–00087–1)	45.00	Apr. 1, 2000
§§ 1.1401–End	(869–042–00088–9)	66.00	Apr. 1, 2000
2–29	(869–042–00089–7)	45.00	Apr. 1, 2000
30–39	(869–042–00090–1)	31.00	Apr. 1, 2000
40–49	(869–042–00091–9)	18.00	Apr. 1, 2000
50–299	(869–042–00092–7)	23.00	Apr. 1, 2000
300–499	(869–042–00093–5)	43.00	Apr. 1, 2000
500–599	(869–042–00094–3)	12.00	Apr. 1, 2000
600–End	(869–042–00095–1)	12.00	Apr. 1, 2000
27 Parts:			
1–199	(869–042–00096–0)	59.00	Apr. 1, 2000

Title	Stock Number	Price	Revision Date
200–End	(869–042–00097–8)	18.00	Apr. 1, 2000
28 Parts:			
0-42	(869–038–00098–9)	39.00	July 1, 1999
43-end	(869-042-00099-4)	36.00	July 1, 2000
29 Parts:			
0–99	(869–042–00100–1)	33.00	July 1, 2000
100–499	(869–038–00101–2)	13.00	July 1, 1999
500–899	(869–042–00102–8)	47.00	July 1, 2000
900–1899	(869–042–00103–6)	24.00	July 1, 2000
1900–1910 (§§ 1900 to 1910.999)	(869–042–00104–4)	46.00	[6]July 1, 2000
1910 (§§ 1910.1000 to end)	(869–042–00105–2)	28.00	[6]July 1, 2000
1911–1925	(869–042–00106–1)	20.00	July 1, 2000
1926	(869–042–00107–9)	30.00	[6]July 1, 2000
1927–End	(869–038–00108–0)	43.00	July 1, 1999
30 Parts:			
1–199	(869–038–00109–8)	35.00	July 1, 1999
200–699	(869–042–00110–9)	33.00	July 1, 2000
700–End	(869–042–00111–7)	39.00	July 1, 2000
31 Parts:			
0–199	(869–042–00112–5)	23.00	July 1, 2000
200–End	(869–042–00113–3)	53.00	July 1, 2000
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–038–00114–4)	46.00	July 1, 1999
191–399	(869–042–00115–0)	62.00	July 1, 2000
400–629	(869–042–00116–8)	35.00	July 1, 2000
630–699	(869–042–00117–6)	25.00	July 1, 2000
700–799	(869–042–00118–4)	31.00	July 1, 2000
800–End	(869–042–00119–2)	32.00	July 1, 2000
33 Parts:			
1–124	(869–042–00120–6)	35.00	July 1, 2000
125–199	(869–042–00121–4)	45.00	July 1, 2000
200–End	(869–042–00122–5)	36.00	July 1, 2000
34 Parts:			
1–299	(869–042–00123–1)	31.00	July 1, 2000
300–399	(869–042–00124–9)	28.00	July 1, 2000
400–End	(869–038–00125–0)	46.00	July 1, 1999
35	(869–042–00126–5)	10.00	July 1, 2000
36 Parts			
1–199	(869–042–00127–3)	24.00	July 1, 2000
200–299	(869–042–00128–1)	24.00	July 1, 2000
300–End	(869–038–00129–2)	38.00	July 1, 1999
37	(869–038–00130–6)	29.00	July 1, 1999
38 Parts:			
0–17	(869–042–00131–1)	40.00	July 1, 2000
18–End	(869–042–00132–0)	47.00	July 1, 2000
39	(869–042–00133–8)	28.00	July 1, 2000
40 Parts:			
1–49	(869–042–00134–6)	37.00	July 1, 2000
50–51	(869–042–00135–4)	28.00	July 1, 2000
52 (52.01–52.1018)	(869–042–00136–2)	36.00	July 1, 2000
52 (52.1019–End)	(869–042–00137–1)	44.00	July 1, 2000
53–59	(869–038–00138–1)	19.00	July 1, 1999
60	(869–042–00139–7)	66.00	July 1, 2000
61–62	(869–038–00140–3)	19.00	July 1, 1999
63 (63.1–63.1119)	(869–042–00141–9)	66.00	July 1, 2000
63 (63.1200–End)	(869–042–00142–7)	49.00	July 1, 2000
64–71	(869–042–00143–5)	12.00	July 1, 2000
72–80	(869–038–00144–6)	41.00	July 1, 1999
81–85	(869–038–00145–4)	33.00	July 1, 1999
86	(869–038–00146–2)	59.00	July 1, 1999
87-135	(869–042–00146–8)	66.00	July 1, 2000
136–149	(869–038–00148–9)	40.00	July 1, 1999
150–189	(869–038–00149–7)	35.00	July 1, 1999
190–259	(869–042–00150–8)	25.00	July 1, 2000
260–265	(869–042–00151–6)	36.00	July 1, 2000
266–299	(869–042–00152–4)	35.00	July 1, 2000
300–399	(869–038–00153–5)	26.00	July 1, 1999
400–424	(869–042–00154–1)	37.00	July 1, 2000
*425–699	(869–042–00155–9)	48.00	July 1, 2000
700–789	(869–038–00156–0)	42.00	July 1, 1999
790–End	(869–042–00157–5)	23.00	[6]July 1, 2000
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
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18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–042–00158–3)	15.00	July 1, 2000
101	(869–038–00159–4)	39.00	July 1, 1999
102–200	(869–042–00160–5)	21.00	July 1, 2000
201–End	(869–042–00161–3)	16.00	July 1, 2000
42 Parts:			
1–399	(869–038–00162–4)	36.00	Oct. 1, 1999
400–429	(869–038–00163–2)	44.00	Oct. 1, 1999
430–End	(869–038–00164–1)	54.00	Oct. 1, 1999
43 Parts:			
1–999	(869–038–00165–9)	32.00	Oct. 1, 1999
1000–end	(869–038–00166–7)	47.00	Oct. 1, 1999
44	(869–038–00167–5)	28.00	Oct. 1, 1999
45 Parts:			
1–199	(869–038–00168–3)	33.00	Oct. 1, 1999
200–499	(869–038–00169–1)	16.00	Oct. 1, 1999
500–1199	(869–038–00170–5)	30.00	Oct. 1, 1999
1200–End	(869–038–00171–3)	40.00	Oct. 1, 1999
46 Parts:			
1–40	(869–038–00172–1)	27.00	Oct. 1, 1999
41–69	(869–038–00173–0)	23.00	Oct. 1, 1999
70–89	(869–038–00174–8)	8.00	Oct. 1, 1999
90–139	(869–038–00175–6)	26.00	Oct. 1, 1999
140–155	(869–038–00176–4)	15.00	Oct. 1, 1999
156–165	(869–038–00177–2)	21.00	Oct. 1, 1999
166–199	(869–038–00178–1)	27.00	Oct. 1, 1999
200–499	(869–038–00179–9)	23.00	Oct. 1, 1999
500–End	(869–038–00180–2)	15.00	Oct. 1, 1999
47 Parts:			
0–19	(869–038–00181–1)	39.00	Oct. 1, 1999
20–39	(869–038–00182–9)	26.00	Oct. 1, 1999
40–69	(869–038–00183–7)	26.00	Oct. 1, 1999
70–79	(869–038–00184–5)	39.00	Oct. 1, 1999
80–End	(869–038–00185–3)	40.00	Oct. 1, 1999
48 Chapters:			
1 (Parts 1–51)	(869–038–00186–1)	55.00	Oct. 1, 1999
1 (Parts 52–99)	(869–038–00187–0)	30.00	Oct. 1, 1999
2 (Parts 201–299)	(869–038–00188–8)	36.00	Oct. 1, 1999
3–6	(869–038–00189–6)	27.00	Oct. 1, 1999
7–14	(869–038–00190–0)	35.00	Oct. 1, 1999
15–28	(869–038–00191–8)	36.00	Oct. 1, 1999
29–End	(869–038–00192–6)	25.00	Oct. 1, 1999
49 Parts:			
1–99	(869–038–00193–4)	34.00	Oct. 1, 1999
100–185	(869–038–00194–2)	53.00	Oct. 1, 1999
186–199	(869–038–00195–1)	13.00	Oct. 1, 1999
200–399	(869–038–00196–9)	53.00	Oct. 1, 1999
400–999	(869–038–00197–7)	57.00	Oct. 1, 1999
1000–1199	(869–038–00198–5)	17.00	Oct. 1, 1999
1200–End	(869–038–00199–3)	14.00	Oct. 1, 1999
50 Parts:			
1–199	(869–038–00200–1)	43.00	Oct. 1, 1999
200–599	(869–038–00201–9)	22.00	Oct. 1, 1999

Title	Stock Number	Price	Revision Date
600–End	(869–038–00202–7)	37.00	Oct. 1, 1999
CFR Index and Findings Aids	(869–042–00047–1)	53.00	Jan. 1, 2000
Complete 1999 CFR set		951.00	1999
Microfiche CFR Edition:			
Subscription (mailed as issued)		290.00	1999
Individual copies		1.00	1999
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 1999, through January 1, 2000. The CFR volume issued as of January 1, 1999 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 1999, through April 1, 2000. The CFR volume issued as of April 1, 1999 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1999, through July 1, 2000. The CFR volume issued as of July 1, 1999 should be retained..