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

Federal Register
Vol. 66, No. 76
Thursday, April 19, 2001

Presidential Documents

Title 3—

The President

Proclamation 7427 of April 16, 2001

National Volunteer Week, 2001

By the President of the United States of America

A Proclamation

America is blessed with millions of individuals of good will and good works who play significant roles in making positive change in the lives of others.

While Government has great responsibilities for public safety and public health, for civil rights and common schools, compassion is the work of a Nation. Caring requires more than Government alone can provide. Many of society's greatest problems can only be solved on a personal level, between those who care and those in need.

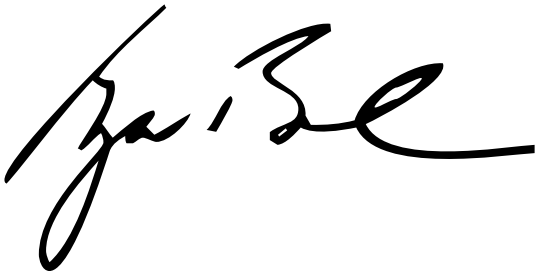
During times of war and natural disaster, Americans have provided relief to those in need. Yet every day there are less publicized instances of human need to which America's quiet heroes respond with equal strength and vigor. Americans contribute food to soup kitchens and clothes to shelters and give love to at-risk children, counsel to those who have been abused, and friendship to those in hospitals and nursing homes. From building a new home for a young family to bringing a meal to an elderly neighbor who is house-bound, there are countless ways we can invest our time and resources to provide compassionate help to our neighbors.

The faith community is a particularly rich source of volunteer strength in America. Government can rally a military, but it cannot put hope in our hearts or a sense of purpose in our lives. Faith motivates countless volunteers and calls on them to use their talents to improve their neighborhoods in ways that are beyond Government's know-how. Church and charity, synagogue, and mosque form an essential part of our communities and their indispensable work must have an honored place in our plans and in our laws. Government can and should unleash the best impulses of the American spirit by welcoming faith-based organizations, as well as other community groups, as partners in encouraging the high calling of serving others.

This week provides an opportunity to thank those who give so much throughout the year to help those less fortunate. It should also serve as a challenge to each of us to devote more energy to seeking a common good beyond our comfort. What individual Americans do is more important than anything Government does. We must all heed Albert Schweitzer's counsel: ''The only ones among you who will be really happy are those who have sought and found how to serve.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 22 through 28, 2001, as National Volunteer Week. During this week, I call on all Americans to celebrate the invaluable work that volunteers do everyday across our country.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of April, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 01–9871
Filed 4–18–01; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 66, No. 76
Thursday, April 19, 2001

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

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Amprolium and Bacitracin Methylene Disalicylate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alpharma, Inc. The NADA provides for use of approved, single-ingredient amprolium and bacitracin methylene disalicylate Type A medicated articles to make two-way combination drug Type C medicated feeds used for the development of active immunity to coccidiosis, increased rate of weight gain, and improved feed efficiency in replacement chickens.

DATES: This rule is effective April 19, 2001.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–1600.

SUPPLEMENTARY INFORMATION: Alpharma, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed NADA 141–156 that provides for use of Amprol® (25 percent amprolium) and BMD® (10, 25, 30, 40, 50, 60, or 75 grams per pound bacitracin methylene disalicylate) Type A medicated articles to make combination Type C medicated feeds containing 36.3 to 113.5 grams per ton (g/ton) amprolium and 4 to 50 g/ton bacitracin methylene disalicylate for use in replacement chickens. The Type C medicated feeds are used for the development of active immunity to coccidiosis, increased rate of weight gain, and improved feed efficiency in replacement chickens. The NADA is approved as of February 12, 2001, and 21 CFR 558.55 is amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) 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.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.55 is amended in the table in paragraph (d)(2) by alphabetically adding an item under entry (i) to read as follows:

§ 558.55 Amprolium.

* * * * *

(d) * * *

(2) * * *

Amprolium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 36.3 to 113.5 (0.004% to 0.0125%).				
*	*	*	*	*
	Bacitracin methylene disalicylate 4 to 50.	Replacement chickens; development of active immunity to coccidiosis, increased rate of weight gain, and improved feed efficiency.	Feed according to subtable in item (i); bacitracin methylene disalicylate as provided by 046573 in § 510.600(c) of this chapter.	046573
*	*	*	*	*

* * * * *

Dated: April 9, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–9651 Filed 4–18–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–01–027]

Drawbridge Operation Regulations; Brorein Street Bridge, across the Hillsborough River, Tampa, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Brorein Street Bridge across the Hillsborough River, mile 0.16, Tampa, Florida. This deviation allows the drawbridge to remain closed to navigation for five days. This temporary deviation is required to allow the bridge owner to safely complete repairs to the bridge.

DATES: This deviation is effective from April 30, 2001 to May 4, 2001.

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

SUPPLEMENTARY INFORMATION: The Brorein Street Bridge across the Hillsborough River at Tampa, has a vertical clearance of 15 feet above mean high water (MHW) measured at the fenders in the closed position with a horizontal clearance of 80 feet. On March 23, 2001, Acutec, Inc., acting as an agent for the drawbridge owner, requested a deviation from the current operating regulation in 33 CFR 117.291(a) which requires the drawbridge to open on signal if at least two hours notice is given. This temporary deviation was requested to allow the bridge owner to safely disassemble the span lock system in a critical time sensitive manner.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.291(a) for the purpose of repair completion of the drawbridge. Under this deviation, the Brorein Street Bridge need not open from 7 a.m. April 30, 2001 until 12 p.m. May 4, 2001.

Dated: April 4, 2001.

Greg E. Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 01–9711 Filed 4–18–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 241–0274a; FRL–6954–8]

Revisions to the California State Implementation Plan, Bay Area Air Quality Management District and Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Bay Area Air Quality Management District and the Imperial County Air Pollution Control District portions of the California State Implementation Plan (SIP). These revisions concern the adoption of rules for volatile organic compound (VOC) source categories for the Bay Area Air Quality Management District (BAAQMD) and the Imperial County Air Pollution Control District (ICAPCD). We are approving these local rules under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on June 18, 2001 without further notice, unless EPA receives adverse comments by May 21, 2001. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

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

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

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

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

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109

Imperial County Air Pollution Control District, 150 South Ninth Street, El Centro, CA 92243

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1184.

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

Table of Contents

I. The State's Submittal

A. What Rules Did the State Submit?

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

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
BAAQMD	8–40	Aeration of Contaminated Soil and Removal of Underground Storage Tanks	12–15–99	03–28–00
ICAPCD	426	Cutback Asphalt and Emulsified Paving Materials	09–14–99	05–26–00

On May 19, 2000 and October 6, 2000, respectively, these rule submittals were found to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

The previous version of Rule 8–40 was approved into the SIP for the Bay Area Air Quality Management District on March 22, 1995. The previous version of Rule 426 was approved into the SIP on November 10, 1982 as Rule 418.1, Cutback Asphalt.

C. What Is the Purpose of the Submitted Rules?

BAAQMD Rule 8–40 controls the emissions of volatile organic compounds (VOC) from soil decontamination and underground storage tank removal operations.

ICAPCD Rule 426 establishes limits for VOC emissions produced by the manufacture, mixing, storage, use, and application of cutback and emulsified asphalt for paving materials. The TSDs have more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The BAAQMD regulates an ozone nonattainment area and the ICAPCD regulates a transitional ozone nonattainment area (*see* 40 CFR 81).

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

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

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

3. EPA's Control Techniques Guidance (CTG), *''Control of Volatile Organic Compounds From Use of Cutback Asphalt,''* EPA–450/2–77–037, November 1977.

4. Model Volatile Organic Compound rules for Reasonably Available Control Technology, June 1992.

B. Do the Rules Meet the Evaluation Criteria?

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

C. EPA Recommendations to Further Improve the Rules

The TSD for ICAPCD Rule 426 describes an additional rule revision that does not affect EPA's current action but is recommended for the next time the ICAPCD modifies the rule.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by May 21, 2001, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on June 18, 2001. This will incorporate these rules into the federally enforceable SIP.

III. Background Information

A. Why Were These Rules Submitted?

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

TABLE 2.—OZONE NONATTAINMENT MILESTONES

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

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power

and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 18, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 2, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(277)(i)(C)(*4*) and (279) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(277) * * *

(i) * * *

(C) * * *

(*4*) Rule 8–40 amended December 15, 1999.

* * * * *

(279) New and amended regulations for the following APCDs were submitted on May 26, 2000, by the Governor's designee.

(i) Incorporation by reference.

(A) Imperial County Air Pollution Control District.

(*1*) Rule 426 amended September 14, 1999.

* * * * *

[FR Doc. 01–9592 Filed 4–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA191–0278a; FRL–6963–1]

Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Ventura County Air Pollution Control District portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from the following source categories: metal parts and products coating, aerospace assembly and component manufacturing, motor vehicle and mobile equipment coating, graphic arts, marine coatings, and wood products coatings. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on June 18, 2001 without further notice, unless EPA receives adverse comments by May 21, 2001. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

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

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

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

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814; and,

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1226.

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

Table of Contents

I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the date that they were adopted by the Ventura County Air Pollution Control District (VCAPCD) and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agnecy	Rule No.	Rule title	Adopted	Submitted
VCAPCD	74.12	Surface Coating of Metal Parts & Products	9/10/96	3/3/97
	74.13	Aerospace Assembly & Component Manufacturing	9/10/96	3/3/97
	74.18	Motor Vehicle and Mobile Equipment Coating	9/10/96	3/3/97
	74.19	Graphic Arts	9/10/96	3/3/97
	74.24	Marine Coatings	9/10/96	3/3/97
	74.30	Wood Products Coatings	9/10/96	3/3/97

On August 12, 1997, EPA found that these rule submittals met the completeness criteria in 40 CFR Part 51 Appendix V. These criteria must be met before formal EPA review begins.

B. Are There Other Versions of These Rules?

There are previous versions of these rules within the SIP. Since their incorporation within the SIP, CARB has not submitted amended versions of these rules prior to this current submittal.

C. What Is the Purpose of the Rule Revisions?

VCAPCD made the following revisions to the above listed rules:

—vapor pressure calculations, low usage exemptions, and spray gun washing requirements were standardized;
—definitions, requirements, and test methods concerning spray gun cleaning were standardized;
—a daily recordkeeping requirement for noncompliant coating, solvent, ink, or adhesive use was added;
—Rules 74.12, 74.13, 74.20, 74.24, and 74.30 were revised to exempt coating operations emitting less than 200 pounds of reactive organic compound per rolling 12 month period; and,
—clean-up solvent limits were added to Rules 74.12, 74.18, and 74.24.

The Technical Support Document (TSD) reviewing each rule provides a more detailed discussion of the amendments to these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The VCAPCD regulates an ozone nonattainment area (see 40 CFR part 81), so Rules 74.12, 74.13, 74.18, 74.24, and 74.30 must fulfill RACT.

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

—Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.
—''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
—''Control of Volatile Organic Emissions from Existing Stationary Sources Volume VI: Surface Coating of Miscellaneous Metal Parts and Products,'' USEPA, June 1978, EPA–450/2–78–015.
—''Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations,'' EPA–453/R–97–004.
—''National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings,'' at 40 CFR (Code of Federal Regulations) Part 59, Subpart B.
—''Control Techniques Guidelines (CTG) for Shipbuilding and Ship Repair Operations (Surface Coating), USEPA, 61 **Federal Register** 44050–44057, August 27, 1996.
—''Guideline Series: Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations,'' USEPA, April, 1996.

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. Please see the relevant TSD reviewing a given rule for more detailed information concerning our evaluation.

C. EPA Recommendations To Further Improve the Rules

Each TSD describes additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rules. The most common correction needed is to incorporate the most recent EPA guidance and methodologies for determining VOC capture and control efficiency.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by May 21, 2001, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on June 18, 2001. This will incorporate these rules into the federally enforceable SIP.

III. Background Information

A. Why Were These Rules Submitted?

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

TABLE 2.—OZONE NONATTAINMENT MILESTONES

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

IV. Administrative Requirements:

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 18, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 19, 2001.

Mike Schulz,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(244) (i)(G) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(244) * * *

(i) * * *

(G) Ventura County Air Pollution Control District.

(*1*) Rules 74.12, 74.13, 74.18, 74.19, 74.24, and 74.30, amended on September 10, 1996.

[FR Doc. 01–9590 Filed 4–18–01; 8:45 am]

BILLING CODE 6560–50–U

Proposed Rules

Federal Register
Vol. 66, No. 76
Thursday, April 19, 2001

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.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1605 and 1606

Correction of Administrative Errors; Lost Earnings Attributable to Employing Agency Errors

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule with request for comment.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) proposes to amend its regulations describing how an administrative error will be corrected to incorporate changes required by the Federal Erroneous Retirement Coverage Corrections Act (FERCCA). FERCCA permits Federal employees and annuitants who were placed in the wrong retirement system to choose between FERS and CSRS Offset. These amendments also explain changes in the TSP record keeping system which will be implemented on May 1, 2001.

DATES: Comments must be received on or before May 21, 2001.

ADDRESSES: Comments may be sent to Elizabeth S. Woodruff, General Counsel, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Salomon Gomez on (202) 942–1661, Patrick J. Forrest on (202) 942–1659, or Merritt A. Willing on (202) 942–1666, FAX (202) 942–1676.

SUPPLEMENTARY INFORMATION: The Board administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514, codified, as amended, largely at 5 U.S.C. 8351 and 8401–8479. The TSP is a tax-deferred retirement savings plan for Federal employees, similar to a cash or deferred arrangement established under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)). Sums in the Thrift Savings Plan are held in trust for TSP participants.

On December 27, 1996, and May 1, 1998, the Board published final regulations in the **Federal Register** concerning the correction of administrative errors (61 FR 67472 and 63 FR 24380). Those regulations were codified at 5 CFR part 1605. On March 12, 2001, the Board published a final regulation in the **Federal Register** changing the time period during which errors must be corrected by an employing agency, the Board, or the TSP record keeper, as the case may be, and when they may be corrected in the sound discretion of these parties (66 FR 14448).

On January 7, 1991, the Board published interim regulations with a request for comment in the **Federal Register** concerning the payment to participants' TSP accounts of lost earnings attributable to employing agency errors (56 FR 606). Those regulations were codified at 5 CFR part 1606.

On September 19, 2000, Congress enacted the Federal Erroneous Retirement Coverage Corrections Act, title II of Public Law 106–265, 114 Stat. 762, which permits Federal employees and annuitants who were placed in the wrong retirement system to choose between FERS and CSRS. The Office of Personnel Management (OPM) has primary responsibility for implementing FERCCA. On March 19, 2001, OPM published an interim rule in the **Federal Register** (66 FR 15606) implementing its obligations under FERCCA.

This regulation implements the Board's obligations under FERCCA. It also amends the existing regulations to incorporate changes in the current TSP record keeping system which will become effective on May 1, 2001. In addition, it incorporates other policy changes as described below.

Analysis of Part 1605

The amendment primarily renumbers and reorganizes the existing part. The substantive changes are described below.

Section 1605.1 contains definitions that apply to error correction, such as Board error and late contributions, as does the existing regulation. Definitions of some terms that are generally applicable throughout the Board's regulations are removed. The definition of investment fund election is eliminated because it is obsolete; the definition of agency contributions is eliminated because it is the same as the definition of employer contributions.

In subpart B, the Board explains proposed procedures for agencies to use in correcting employing agency errors in TSP participants' accounts. Section 1605.11 replaces and is substantially the same as existing § 1605.2; it explains the process for correcting errors which prevent participants from receiving the TSP contributions they are entitled to receive. Paragraph (c)(4) explains that the current rule prohibiting a participant from making contributions for six months following a financial hardship in-service withdrawal also prohibits a participant from making up contributions during this period. In paragraph (c)(8), the Board proposes to remove the current restriction on participants' making partial payments under a schedule for employee makeup contributions. The Board proposes to remove this restriction because agencies have requested that they be given the flexibility to accept such payments.

Section 1605.12 replaces existing § 1605.3 and explains the process for agencies to follow in removing erroneous contributions from a participant's account (negative adjustments). To avoid administrative complications, the Board proposes to calculate negative adjustments without regard to intervening interfund transfers.

Section 1605.13 replaces existing § 1605.4 and provides rules for makeup contributions resulting from back pay awards and other retroactive pay adjustments. Currently, § 1605.4(a)(1) provides that, on reinstatement, a participant must be given the opportunity to submit a contribution election to make current contributions; the contribution election is made retroactive to the first day of the first full pay period in the most recent TSP election period. The amendment eliminates this retroactive effect; instead, the contribution election will take effect as soon after it is received as administratively possible. The participant also has the opportunity to elect makeup contributions under proposed § 1605.13(a)(2); all makeup contributions will be invested as provided in paragraph proposed § 1605.13(a)(3). The proposed rule incorporates without change the

provision of the final rule published in the **Federal Register** on March 12, 2001 (66 FR 14446), that lost earnings will be calculated based upon the G Fund rates of return or otherwise as agreed by the parties or ordered by the court or other tribunal with jurisdiction over the back pay case.

Section 1605.14, formerly § 1605.5, is amended to adopt new procedures for the correction of errors as provided in FERCCA.

Section 1605.15 has been reserved.

Section 1605.16, formerly § 1605.6, explains the procedure and time limitations for a participant to file a claim against his or her employing agency. The section is renumbered but otherwise incorporates without change the procedures published in the Board's final regulation on March 12, 2001 (66 FR 14446); the section is published here in its entirety for completeness. However, participants should also take note of amended § 1606.15, which provides that a participant's claim must be filed within six months of the participant's receipt of the earliest of a TSP participant statement, TSP loan statement, employing agency earnings and leave statement, or any other document that indicates that an employing agency error has affected the participant's TSP account.

Subpart C discusses the correction of Board or TSP record keeper errors. Section 1605.21 remains substantially the same as existing § 1605.7. The Board proposes to eliminate § 1605.7(a)(3), which gives participants the choice of whether or not to have an error corrected; instead, the TSP would correct any of its (or its record keeper's) errors that are timely discovered or brought to its attention. Also, the proposed amendment deletes 1605.7(b) because it is redundant; errors in reporting a taxable distribution are processed no differently than are other miscellaneous errors under § 1605.21(b).

Section 1605.22, formerly § 1605.8, discusses the procedures for submitting claims for the correction of Board or TSP record keeper errors. The section is renumbered but otherwise incorporates without change the procedures published in the Board's final regulation on March 12, 2001 (66 FR 14446); the section is published here in its entirety for completeness.

In subpart D, the Board proposes to include miscellaneous provisions, such as § 1605.31, which addresses retroactive employer and employee contributions that are not the result of error, but are permitted by the Uniformed Services Employment and Reemployment Rights Act (USERRA), 5 U.S.C. 8432b. (Eligibility for retroactive employer and employee contributions due to military service is determined under part 1620, subpart E.) The proposed amendment gives eligible participants the right to choose whether lost earnings on makeup employer contributions will be computed using the rates of return for the G Fund or using the rates of return consistent with the participant's contribution allocation that was on file immediately before he or she separated for military service.

Analysis of the Amendment to Part 1606

Only minor changes are made to part 1606 to make it consistent with the proposed amendments to part 1605.

In § 1606.2, the definitions have been changed to conform to those in part 1605.

The amendments to § 1606.5 reflect changes in how participants will submit contribution allocations after May 1, 2001. (This change was first explained in the Board's proposed amendment to 5 CFR part 1600, published in the **Federal Register** on March 26, 2001 (66 FR 16411).) At present, participants submit contribution allocations to their employing agencies, on the same form (Form TSP–1) as their contribution elections. After May 1, 2001, participants will continue to file contribution elections with their employing agencies but will file their contribution allocations using Form TSP–50 with the TSP record keeper, or using the TSP Web site or the ThriftLine. Thus, for lost earnings on contribution errors occurring on or before April 30, 2001, the employing agency will continue to report the investment fund to which a makeup or late contribution would have been made on the lost earnings record. The Board proposes to compute lost earnings on contributions to an incorrect investment fund occurring before May 1, 2001, without regard to intervening interfund transfers. For lost earnings on contribution errors occurring on or after May 1, 2001, the TSP record keeper will determine the proper fund allocation.

Finally, in amending § 1606.5, the Board proposes to remove references to the investment restrictions applicable to errors that occurred prior to December 31, 1990, because there are very few of these errors left to be corrected, if any. A similar amendment is made to § 1606.7.

Section 1606.7, describing how agencies correct contribution allocation errors, is modified because after April 30, 2001, agencies will no longer be able to make contribution allocation errors.

The Board proposes to amend § 1606.8 to delete paragraph (b), which is obsolete, and to include a reference to the change in participants' submission of contribution allocations directly to the TSP.

The Board proposes to amend § 1606.9 to allocate lost earnings pro rata based upon the participant's most recent valued account balance.

The Board proposes to amend § 1606.11 to reflect modifications to agencies' submission of lost earnings records.

The Board proposes to amend § 1606.13 to reflect changes to the lost earnings calculation.

The Board proposes to amend § 1606.15(a) to incorporate the claims filing procedures that were incorporated into 1605.16 by the Board's final regulation published in the **Federal Register** on March 12, 2001 (66 FR 14446).

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees of the Federal Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, and 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments in the aggregate, or by the private sector. Therefore, a statement under section 1532 is not required.

List of Subjects in 5 CFR Part 1605

Employment benefit plans, Government employees, Pensions, Retirement.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set out in the preamble, 5 CFR chapter VI is proposed to be amended as set forth below:

1. Part 1605 is revised to read as follows:

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

Subpart A—General

Subpart B—Employing Agency Errors

Subpart C—Board or TSP Record Keeper Errors

Subpart D—Miscellaneous provisions

Authority: 5 U.S.C. 8351 and 8474. Section 1605.14 also issued under Title II, Pub. L. 106–265, 114 Stat. 770.

Subpart A—General

§ 1605.1 Definitions.

As used in this part:

''As of'' date means the date on which a TSP contribution or other transaction should have taken place.

Attributable pay date ordinarily means the pay date of an erroneous contribution with respect to which a negative adjustment is being made. If, however, the erroneous contribution was a makeup or late contribution, the attributable pay date is the ''as of'' date associated with the erroneous makeup or late contribution.

Board error means any act or omission by the Board which is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants.

Contribution allocation of record means the last contribution allocation on file for the participant's account, which either will have been derived pursuant to § 1601.12 of this chapter or will result from the participant's filing of an election pursuant to § 1601.13 of this chapter.

Employing agency means the organization that employs an individual eligible to contribute to the TSP and that has authority to make personnel compensation decisions for the individual.

Employing agency error means any act or omission by an employing agency that is not in accordance with all applicable statutes, regulations, or administrative procedures, including internal procedures promulgated by the employing agency and TSP procedures provided to employing agencies by the Board.

FERCCA correction means the correction of a retirement coverage error pursuant to the Federal Erroneous Retirement Coverage Corrections Act, title II, Public Law 106–265 (2000).

Late contributions means: Employee contributions that were timely deducted from a participant's basic pay but were not timely reported to the TSP record keeper for investment; employee contributions that were timely reported to the TSP but were not posted to the participant's account by the TSP because the payment record on which they were submitted contained errors; and attributable agency matching contributions and agency automatic (1%) contributions that were not timely reported.

Lost earnings record means a data record containing information enabling the TSP system to compute lost earnings.

Makeup contributions are employee contributions that should have been deducted from a participant's basic pay, or employer contributions that should have been charged to an employing agency, on an earlier date but were not deducted or charged and, consequently, are being deducted or charged currently.

Negative adjustment means the removal of money from a participant's TSP account by an employing agency.

Negative adjustment record means a data record submitted by an employing agency to remove from a participant's TSP account money which was previously submitted in error.

Pay date means the date established by an employing agency for payment of its employees.

Payment record means a data record submitted by an employing agency to report contributions or loan payments to a participant's TSP account.

Record keeper error means any act or omission by the TSP record keeper that is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants.

Source of contributions means employee contributions, agency automatic (1%) contributions, or agency matching contributions.

TSP record keeper means the entity that is engaged by the Board to perform record keeping services for the Thrift Savings Plan. As of the date of publication of this part, the TSP record keeper is the National Finance Center, United States Department of Agriculture, located in New Orleans, Louisiana.

Subpart B—Employing agency errors

§ 1605.11 Makeup of missed or insufficient contributions.

(a) *Applicability.* This section applies whenever, as the result of an employing agency error, a participant does not receive all of the TSP contributions to which he or she is entitled. This includes situations in which an employing agency error prevents a participant from making an election to contribute to his or her TSP account, in which an employing agency fails to implement a contribution election properly submitted by a participant, in which an employing agency fails to make agency automatic (1%) contributions or agency matching contributions that it is required to make, or in which an employing agency otherwise erroneously contributes less to the TSP for a participant's account than it should have. The corrections required by this section must be made in accordance with this part and the procedures provided to employing agencies by the Board in bulletins or other guidance. It is the responsibility of the employing agency to determine whether it has made an error that entitles a participant to error correction under this section.

(b) *Employer makeup contributions.* If an employing agency has failed to make agency automatic (1%) contributions that are required under 5 U.S.C. 8432(c)(1)(A), agency matching contributions that are required under 5 U.S.C. 8432(c)(2), or conversion contributions that are required under 5 U.S.C. 8432(c)(3), the following rules apply:

(1) The employing agency must promptly submit all missed contributions to the TSP record keeper on behalf of the affected participant. For each pay date involved, the employing agency must submit a separate payment record showing the ''as of'' date for the contributions. Employer makeup contributions will be invested in accordance with the participant's contribution allocation of record at the time the makeup contributions are posted to the account.

(2) If the participant is entitled to lost earnings on employer makeup contributions pursuant to 5 CFR part 1606, the employing agency must also submit lost earnings records.

(c) *Employee makeup contributions.* Within 30 days of receiving information from his or her employing agency indicating that the employing agency

acknowledges that an error has occurred which has caused less in employee contributions to be made to the participant's account than should have been made, a participant may elect to establish a schedule of makeup contributions to replace the missed contributions through future payroll deductions. Employee makeup contributions can be made in addition to any TSP contributions that the participant is otherwise entitled to make. The following rules apply to employee makeup contributions:

(1) The schedule of makeup contributions elected by the participant must establish the dollar amount of the contributions to be made each pay period over the duration of the schedule. The contribution amount per pay period may vary during the course of the schedule, but the amounts to be contributed must be established when the schedule is created. The schedule may not exceed four times the number of pay periods over which the error occurred.

(2) At its discretion, an employing agency may set a ceiling on the length of a schedule of employee makeup contributions which is less than four times the number of pay periods over which the error occurred. The ceiling may not, however, be less than twice the number of pay periods over which the error occurred.

(3) The employing agency must implement the participant's schedule of makeup contributions as soon as practicable.

(4) For each pay date involved, the employing agency must submit a separate payment record showing the ''as of'' date for the employee makeup contribution. An employee is not eligible to make up contributions with an ''as of'' date occurring within six months after a financial hardship in-service withdrawal, as provided in § 1650.33 of this chapter.

(5) Employee makeup contributions will be invested in accordance with the participant's contribution allocation of record at the time the makeup contributions are posted to the account. If no contribution allocation is on file, the contributions will be invested in the G Fund.

(6) Employee makeup contributions will not be considered in applying the maximum amount per pay period that a participant is permitted to contribute to the TSP, but will be included for purposes of applying the annual limits contained in sections 402(g) and 415(c) of the Internal Revenue Code (I.R.C.) (26 U.S.C. 402(g)(1) and 415(c)). For purposes of applying the annual limits of sections 402(g) and 415(c) of the I.R.C., employee makeup contributions will be applied against the limit for the year in which the contributions should have been made (i.e., the year of the ''as of'' date).

(i) Before establishing a schedule of employee makeup contributions, the employing agency must review any schedule proposed by the affected participant, as well as the participant's prior TSP contributions, if any, to determine whether the makeup contributions, when combined with prior contributions for the same year, would exceed the annual contribution limit(s) contained in sections 402(g) and 415(c) of the I.R.C. for the year(s) with respect to which the contributions are being made.

(ii) The employing agency must not permit contributions that, when combined with prior contributions, would exceed the applicable annual contribution limits contained in sections 402(g) and 415(c) of the I.R.C.

(7) A schedule of employee makeup contributions may be suspended if a participant has insufficient net pay to permit the makeup contributions. If this happens, the period of suspension should not be counted against the maximum number of pay periods to which the participant is entitled in order to complete the schedule of makeup contributions.

(8) A participant may elect to terminate a schedule of employee makeup contributions at any time, but a termination is irrevocable. If a participant separates from Government service, the participant may elect to accelerate the payment schedule by a lump sum contribution from his or her final paycheck.

(9) At the same time that a participant makes up missed employee contributions, the employing agency must make any agency matching contributions that would have been made had the error not occurred. Agency matching contributions must be submitted pursuant to the rules set forth in paragraph (b) of this section. A participant may not receive matching contributions associated with any employee contributions that are not actually made up. If employee makeup contributions are suspended in accordance with paragraph (c)(7) of this section, the payment of agency matching contributions must also be suspended.

(10) If a participant transfers to an employing agency different from the one at which the participant was employed at the time of the missed contributions, it remains the responsibility of the former employing agency to determine whether employing agency error was responsible for the missed contributions. If it is determined that such an error has occurred, the current agency must take any necessary steps to correct the error. The current agency may seek reimbursement from the former agency of any amount that would have been paid by the former agency had the error not occurred.

(11) Employee makeup contributions may be made only by payroll deduction from basic pay. Contributions by check, money order, cash, or other form of payment directly from the participant to the TSP, or from the participant to the employing agency for deposit to the TSP, are not permitted.

(12) If the participant is entitled to lost earnings on the makeup contributions pursuant to 5 CFR part 1606, the employing agency must also submit lost earnings records.

(d) *Late contributions.* If, as a result of agency error, the TSP posts a late contribution to a participant's account more than 30 calendar days after the ''as of'' date that is reported by the employing agency on the payment record, the employing agency must submit any lost earnings records pursuant to 5 CFR part 1606. Late contributions will be invested in accordance with the participant's contribution allocation of record on the posting date.

§ 1605.12 Removal of erroneous contributions.

(a) *Applicability.* This section applies to negative adjustments. These include situations in which, because of an employing agency error, employee contributions in excess of the amount elected by a participant are contributed to a participant's account, employee contributions (and any attributable agency matching contributions) are made on behalf of a participant who did not elect to make contributions, or excess employer contributions are made to a participant's account. Negative adjustments resulting from a FERCCA correction are addressed in § 1605.14.

(b) *Method of correction.* Negative adjustment records must be submitted by employing agencies in accordance with this part and with any other procedures provided by the Board.

(1) To remove money from a participant's account, the employing agency must submit, for each attributable pay date involved, a negative adjustment record stating the amount of the erroneous contribution being removed, the attributable pay date with respect to which the erroneous contribution was made, and the source(s) of the contributions. The TSP record keeper will derive the investment

of the negative adjustment from the allocation of any contribution which was reported for the attributable pay date. If no contribution was submitted for the attributable pay date, the negative adjustment will not be processed.

(2) A negative adjustment record may be for all or a part of the contributions made for the attributable pay date and source of contributions; however, for each source of contributions, the negative adjustment may not exceed the amount of contributions made for that date, less any prior negative adjustments for the same date.

(c) *Processing negative adjustments.* Negative adjustments will be processed in accordance with the following rules:

(1) Negative adjustment records received and accepted by the TSP record keeper by the second-to-last business day of a month will be processed effective as of the end of that month. Negative adjustment records accepted by the TSP record keeper after the second-to-last business day of a month will be processed effective as of the end of the following month; and

(2) For each negative adjustment record, the TSP record keeper will determine attributable earnings on the amount of the adjustment by source of contribution and investment fund. Thus, earnings and losses from different sources will not be netted against each other, and earnings and losses from different investment funds will not be netted against each other. Further, interfund transfers occurring between the attributable pay date of the negative adjustment and the date the adjustment is processed by the TSP record keeper will not be considered.

(d) *Employee contributions.* The following rules apply to negative adjustments involving employee contributions:

(1) If, on the posting date, the amount calculated under paragraph (c) of this section is greater than the amount of the proposed negative adjustment, the full amount of the adjustment will be returned to the employing agency. Subject to paragraph (d)(4) of this section, the earnings on the erroneous contribution will remain in the participant's account;

(2) If, on the posting date, the amount calculated under paragraph (c) of this section is less than the amount of the proposed negative adjustment, the amount of the adjustment, reduced by the investment loss, will be returned to the employing agency. However, an investment loss will not affect the employing agency's obligation to refund to the participant the full amount of the erroneous contribution;

(3) If an employing agency removes erroneous employee contributions from a participant's account, it must also remove, under paragraph (e) of this section, any attributable agency matching contributions; and

(4) If all employee contributions are removed from a participant's account under the rules set forth in this section, the participant may choose to leave any earnings in the account unless he or she was not eligible to have an account in the TSP at the time earnings were credited to the account, and remains ineligible. If the participant was ineligible for a TSP account (and remains ineligible), the earnings will be paid to the participant. If earnings remain in the account, upon the participant's separation from Government service, they will be subject to the same withdrawal rules as apply to any other funds in a participant's account.

(e) *Employer contributions.* The following rules apply to negative adjustments involving erroneous employer contributions:

(1) Erroneous employer contributions will be returned to the employing agency only if the negative adjustment record is posted by the TSP record keeper within one year of the date the erroneous contribution was posted. If one year or more has elapsed when the negative adjustment record is posted, the amount computed under paragraph (c) of this section will be removed from the participant's account and used to offset TSP administrative expenses;

(2) If the erroneous contribution has been in the participant's account for less than one year when the negative adjustment record is posted and the amount computed under paragraph (c) of this section is greater than the amount of the adjustment, the employing agency will receive the full amount of the erroneous contribution. Any earnings attributable to the erroneous contribution will be removed from the participant's account and used to offset TSP administrative expenses;

(3) If the erroneous contribution has been in the participant's account for less than one year when the negative adjustment record is posted and the amount computed under paragraph (c) of this section is less than the amount of the adjustment, the employing agency will receive the amount of the erroneous contribution reduced by the investment loss; and

(4) An employing agency's obligation to submit negative adjustment records to remove erroneous contributions from a participant's account is not affected by the length of time the contributions have been in the account.

(f) *Each negative adjustment to be processed separately.* For purposes of paragraphs (d) and (e) of this section—

(1) If multiple negative adjustments for a participant are posted on the same business day, the amount removed from the participant's account and/or returned to the employing agency will be determined separately for each adjustment, for each source of contributions, and for each investment fund. Earnings and losses for erroneous contributions made on different dates will not be netted against each other. Instead, each source of contributions and each fund will be treated as separate for purposes of these calculations;

(2) The amount computed by application of the rules above will be removed from the participant's account *pro rata* from all investment funds, by source, based on the allocation of the participant's most recent month-end valued account balance; and

(3) If there is insufficient money in the same source of contributions to cover the amount to be removed, the negative adjustment record will be rejected.

§ 1605.13 Back pay awards and other retroactive pay adjustments.

(a) *Participant not employed.* The following rules apply to participants who receive a back pay award or other retroactive pay adjustment for a period during which the participant was separated from Government employment:

(1) If the participant is reinstated to Government employment, immediately upon reinstatement the employing agency must give the participant the opportunity to submit a contribution election to make current contributions. The contribution election will be effective as soon as administratively feasible, but no later than the first day of the first full pay period after it is received;

(2) The employing agency must give the participant the following options for electing makeup contributions:

(i) If the participant had a contribution election on file when he or she separated, upon the participant's reinstatement to Government employment, that election will be reinstated for purposes of the makeup contributions; or

(ii) Instead of making contributions for the period of separation in accordance with the reinstated contribution election, the participant may submit a new contribution election for any open season(s) that occurred during the period of separation.

(3) All makeup contributions under this section will be invested based on the participant's contribution allocation of record at the time the makeup contributions are posted to the account; and

(4) The employing agency must submit lost earnings records pursuant to 5 CFR part 1606. Lost earnings will be calculated and credited to a participant's account in accordance with 5 CFR part 1606 using the rates of return for the G Fund unless otherwise requested by the agency (with the concurrence of the participant), or as ordered by a court or other tribunal with jurisdiction over the participant's back pay case.

(b) *Participant employed.* The following rules apply to participants who receive a back pay award or other retroactive pay adjustment for a period during which the participant was not separated from Government employment:

(1) The participant will be entitled to make up contributions for the period covered by the back pay award or retroactive pay adjustment only if for that period—

(i) The participant had designated a percentage of basic pay to be contributed to the TSP; or

(ii) The participant had designated a dollar amount of contributions each pay period which equaled the applicable ceiling (FERS or CSRS) on contributions per pay period, and which, therefore, was limited as a result of the reduction in pay that is made up by the back pay award or other retroactive pay adjustment;

(2) The employing agency must compute the amount of additional employee contributions, agency matching contributions, and agency automatic (1%) contributions that would have been contributed to the participant's account had the reduction in pay leading to the back pay award or other retroactive pay adjustment not occurred; and

(3) If the participant is entitled to lost earnings pursuant to 5 CFR part 1606, the employing agency must also submit lost earnings records.

(c) *Contributions to be deducted before payment or other retroactive pay adjustment.* Employee makeup contributions required under paragraphs (a) and (b) of this section:

(1) Must be computed before the back pay award or other retroactive pay adjustment is paid, deducted from the back pay or other retroactive pay adjustment, and submitted to the TSP record keeper;

(2) Must not cause the participant to exceed the annual contribution limit(s) contained in sections 402(g) and 415(c) of the I.R.C. (26 U.S.C. 402(g)(1) and 415 (c)) for the year(s) with respect to which the contributions are being made, taking into consideration the TSP contributions already made in (or with respect to) that year; and

(3) Must be accompanied by attributable agency matching contributions. In any event, regardless of whether a participant elects to make up employee contributions, the employing agency must make all appropriate agency automatic (1%) contributions associated with the back pay award or other retroactive pay adjustment.

(d) *Prior withdrawal of TSP account.* If a participant has withdrawn his or her TSP account, other than by purchasing an annuity, and the separation from Government employment upon which the withdrawal was based is reversed, resulting in reinstatement of the participant without a break in service, the participant will have the option to restore the amount withdrawn to his or her TSP account. The right to restore the withdrawn funds will expire if notice is not provided by the participant to the Board within 90 days of reinstatement. If the participant returns the funds that were withdrawn, they will be posted to the participant's account based on his or her last contribution allocation of record. If no contribution allocation is on file, the contributions will be invested in the G Fund. No lost earnings will be paid on any restored funds.

§ 1605.14 Misclassified retirement coverage.

(a) If a CSRS participant is misclassified by an employing agency as a FERS participant, when the misclassification is corrected:

(1) Employee contributions that exceed the applicable contribution percentage for the pay period(s) involved may remain in the participant's account. However, the participant may choose to have such employee contributions or all of the employee contributions made during the period of misclassification removed from his or her account and refunded to the participant. If the participant requests a refund of employee contributions, the employing agency must submit negative adjustment records, under the procedures of § 1605.12, to request removal of these funds;

(2) The employing agency must, under the procedures of § 1605.12, remove all employer contributions made to the participant's account during the period of misclassification. Employer contributions that have been in the account for less than one year will be returned to the employing agency; employer contributions that have been in the participant's account for one year or more will be removed from the account and used to offset TSP administrative expenses; and

(3) If the employing agency fails to submit a negative adjustment record under the procedures of § 1605.12(b) to remove employer contributions, after all such contributions have been in the participant's account for more than one year the TSP record keeper will remove them from the account and use such amounts to offset TSP administrative expenses.

(b) If a FERS participant is misclassified by an employing agency as a CSRS participant, when the misclassification is corrected:

(1) The participant may not elect to have the contributions made while classified as CSRS removed from his or her account;

(2) The participant may, under the rules of § 1605.11, elect to make up contributions that he or she would have been eligible to make as a FERS participant during the period of misclassification;

(3) The employing agency must, under the rules of § 1605.11, make agency automatic (1%) contributions and agency matching contributions on employee contributions that were made while the participant was misclassified;

(4) The employing agency must submit lost earnings records for makeup employer contributions pursuant to 5 CFR part 1606; and

(5) If the retirement coverage correction is a FERCCA correction, the participant is entitled to lost earnings on makeup employee contributions and the employing agency must submit lost earnings records pursuant to 5 CFR part 1606. However, if employee contributions were made up before the Office of Personnel Management implements its regulations on FERCCA corrections, the amount of lost earnings will be calculated by the Office of Personnel Management, pursuant to its regulations, and provided to the employing agency for transmission to the TSP record keeper.

(c) If a participant was misclassified as either FERS or CSRS and the retirement coverage is corrected to FICA only, the participant is no longer eligible to participate in the TSP.

(1) Employee contributions in the account are subject to the rules in paragraph (a)(1) of this section.

(2) Employer contributions in the account are subject to the rules in paragraph (a)(2) of this section.

(3) The participant will be deemed to be separated from Federal service for all TSP purposes. If the participant has an outstanding loan, it will be subject to the provisions of 5 CFR 1655.13. The participant may make a TSP post-employment withdrawal election pursuant to 5 CFR part 1650, subpart B, and the withdrawal will be subject to the provisions of § 1650.60(b).

§ 1605.15 [Reserved]

§ 1605.16 Claims for correction of employing agency errors; time limitations.

(a) *Agency's discovery of error.* (1) Upon discovery of an error made within the past six months involving the correct or timely remittance of payments to the TSP (other than a contribution allocation error as covered in paragraph (a)(2) of this section or a retirement system misclassification error, as covered in paragraph (c) of this section), an employing agency must promptly correct the error on its own initiative. If the error was made more than six months before its discovery, the agency may exercise sound discretion in deciding whether to correct it, but, in any event, the agency must act promptly in doing so.

(2) An employing agency must promptly correct a contribution allocation error that occurred before May 1, 2001, on its own initiative if it is discovered within 30 days of its first occurrence. No contribution allocation error that occurred before May 1, 2001, may be corrected if it is not the subject of a timely discovery.

(b) *Participant's discovery of error.* (1) If an agency fails to discover an error of which a participant has knowledge involving the correct or timely remittance of a payment to the TSP (other than a contribution allocation error as covered by paragraph (b)(2) of this section, or a retirement system misclassification error as covered by paragraph (c) of this section), the participant may file a claim for correction of the error with his or her employing agency without a time limit. The agency must promptly correct any such error for which the participant files a claim within six months of its occurrence; the correction of any such error for which the participant files a claim after that time is in the agency's sound discretion.

(2) A participant may file a claim for correction of a contribution allocation error made before May 1, 2001, with his or her employing agency no later than 30 days after the participant receives a TSP participant statement first reflecting the error. The agency must promptly correct such errors.

(3) If a participant fails to file a claim for correction of an error described in paragraph (b)(2) of this section in a timely manner, the error will not be corrected.

(c) *Retirement system misclassification error.* Errors arising from retirement system misclassification must be corrected no matter when they are discovered, whether by an agency or a participant.

(d) *Agency procedures.* Each employing agency must establish procedures for participants to submit claims for correction under this subpart. Each employing agency's procedures must include the following:

(1) The employing agency must provide the participant with a decision on any claim within 30 days of its receipt, unless the employing agency provides the participant with good cause for requiring a longer period to decide the claim. A decision to deny a claim in whole or in part must be in writing and must include the reasons for the denial, citations to any applicable statutes, regulations, or procedures, a description of any additional material that would enable the participant to perfect the claim, and a statement of the steps necessary to appeal the denial;

(2) The employing agency must permit a participant at least 30 days to appeal the employing agency's denial of all or any part of a claim for correction under this subpart. The appeal must be in writing and addressed to the agency official designated in the initial decision or in procedures promulgated by the agency. The participant may include with his or her appeal any documentation or comments that the participant deems relevant to the claim;

(3) The employing agency must issue a written decision on a timely appeal within 30 days of receipt of the appeal, unless the employing agency provides the participant with good cause for requiring a longer period to decide the appeal. The employing agency decision must include the reasons for the decision, as well as citations to any applicable statutes, regulations, or procedures; and

(4) If the agency decision on the appeal is not issued in a timely manner, or if the appeal is denied in whole or in part, the participant will be deemed to have exhausted his or her administrative remedies and will be eligible to file suit against the employing agency under 5 U.S.C. 8477. There is no administrative appeal to the Board of a final agency decision.

Subpart C—Board or TSP Record Keeper Errors

§ 1605.21 Plan-paid lost earnings and other corrections.

(a) *Plan-paid lost earnings.* (1) Subject to paragraph (a)(3) of this section, if, because of an error committed by the Board or the TSP record keeper, a participant's account is not credited or charged with the earnings or losses that he or she would have received had the error not occurred, the participant's TSP account will be credited (or charged) with the difference between the earnings (or losses) it actually received and the earnings (or losses) it would have received had the error not occurred.

(2) Errors that warrant the crediting of earnings or charging of investment losses under this paragraph include, but are not limited to:

(i) Delay in crediting contributions or other monies to a participant's account;

(ii) Improper issuance of a loan or withdrawal payment to a participant or beneficiary which requires the money to be restored to the participant's account; and

(iii) Investment of all or part of a participant's account in the wrong investment fund(s).

(3) A participant will not be entitled to earnings under paragraph (a)(1) of this section if, during the period the participant's account received credit for less earnings than it would have received but for Board or record keeper error, the participant had the use of the money on which the earnings would have accrued.

(4) If the participant continued to have a TSP account, or would have continued to have a TSP account but for the Board or TSP record keeper error, earnings or losses under paragraph (a)(1) of this section will be computed for the relevant period based upon the investment funds in which the affected monies would have been invested had the error not occurred. If the participant did not have, and should not have had, an account in the TSP during this period, then the earnings will be computed using the G Fund rate of return for the relevant period and the monies returned to the participant.

(b) *Other corrections.* The Executive Director may, in his discretion and consistent with the requirements of applicable law, correct any other errors not specifically addressed in this section, including payment of lost earnings, if the Executive Director determines that the correction would serve the interests of justice and fairness and equity among all participants of the TSP.

§ 1605.22 Claims for correction of Board or TSP record keeper errors; time limitations.

(a) *Filing claims.* Claims for correction of Board or TSP record keeper errors under this subpart may be submitted initially either to the TSP record keeper or the Board. The claim must be in writing and may be from the affected participant or beneficiary.

(b) *Board's or TSP record keeper's discovery of error.* (1) Upon discovery of an error made within the past six months involving a receipt or a disbursement, the Board or TSP record keeper must promptly correct the error on its own initiative. If the error was made more than six months before its discovery, the Board or the TSP record keeper may exercise sound discretion in deciding whether to correct the error, but, in any event, must act promptly in doing so.

(2) For errors concerning contribution allocations or interfund transfers, the Board or the TSP record keeper must promptly correct the error if it is discovered before 30 days after the issuance of the earlier of the most recent TSP participant (or loan) statement or transaction confirmation that reflected the error. If it is discovered after that time, the Board or TSP record keeper may use its sound discretion in deciding whether to correct it, but, in any event, must act promptly in doing so.

(c) *Participant's or beneficiary's discovery of error.* (1) If the Board or TSP record keeper fails to discover an error of which a participant or beneficiary has knowledge involving a receipt or a disbursement, the participant or beneficiary may file a claim for correction of the error with the Board or the TSP record keeper without time limit. The Board or the TSP record keeper must promptly correct any such error for which the participant or beneficiary filed a claim within six months of its occurrence; the correction of any such error for which the participant or beneficiary filed a claim after that time is in the sound discretion of the Board or TSP record keeper.

(2) For errors involving contribution allocations or interfund transfers of which a participant or beneficiary has knowledge, he or she may file a claim for correction with the Board or TSP record keeper no later than 30 days after receipt of the earlier of a TSP participant (or loan) statement or transaction confirmation reflecting the error. The Board or TSP record keeper must promptly correct such errors.

(3) If a participant or beneficiary fails to file a claim for correction of contribution allocations or interfund transfers in a timely manner, the Board or TSP record keeper may nevertheless, in its sound discretion, correct any such error that is brought to its attention.

(d) *Processing claims.* (1) If the initial claim is submitted to the TSP record keeper, the TSP record keeper may either respond directly to the claimant, or may forward the claim to the Board for response. If the TSP record keeper responds to a claim, and all or any part of the claim is denied, the claimant may request review by the Board within 90 days of the date of the record keeper's response.

(2) If the Board denies all or any part of a claim (whether upon review of a TSP record keeper denial or upon an initial review by the Board), the claimant will be deemed to have exhausted his or her administrative remedy and may file suit under 5 U.S.C. 8477. If the claimant does not submit a request to the Board for review of a claim denial by the TSP record keeper within the 90 days permitted under paragraph (d)(1) of this section, the claimant will be deemed to have accepted the TSP record keeper's decision.

Subpart D—Miscellaneous Provisions

§ 1605.31 Contributions missed as a result of military service.

(a) *Applicability.* This section applies to employees who meet the conditions specified at 5 CFR 1620.40 and who are eligible to receive or to make up contributions missed as a result of military service.

(1) *Missed employee contributions.* Eligibility for making up missed employee contributions will be determined in accordance with the rules specified at 5 CFR part 1620, subpart E. Missed employee contributions will be made up in accordance with the rules specified in § 1605.20(c).

(2) *Missed employer contributions.* Missed agency automatic (1%) contributions will be determined in accordance with the rules specified at 5 CFR part 1620, subpart E.

(i) If an employee makes up missed employee contributions, attributable agency matching contributions must be made accordingly.

(ii) The employing agency must submit lost earnings records for missed employer contributions pursuant to 5 CFR part 1606. Lost earnings may be calculated using the rates of return based on the contribution allocation(s) on file for the participant during the period of military service or using the rates of return for the G Fund; the participant must make this election at the same time his or her makeup schedule is established pursuant to § 1605.11(c).

(b) [Reserved]

PART 1606—LOST EARNINGS ATTRIBUTABLE TO EMPLOYING AGENCY ERRORS

2. The authority citation for part 1606 is revised to read as follows:

Authority: 5 U.S.C. 8432a, 8474(b)(3) and (c)(1). Section 1606.5 also issued under Title II, Pub. L. 106–265, 114 Stat. 770.

3. Section 1606.2 is revised to read as follows:

§ 1606.2 Definitions.

As used in this part:

Agency automatic (1%) contributions means any contributions made under 5 U.S.C. 8432(c)(1) and (c)(3).

Agency matching contributions means any contributions made under 5 U.S.C. 8432(c)(2).

''As of'' date means the date on which TSP contributions or other transactions should have been made.

Board error means any act or omission by the Board that is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants.

Employee contributions means any contributions to the Thrift Savings Plan made under 5 U.S.C. 8351(a), 8432(a), or 8440a through 8440e.

Employer contributions means agency automatic (1%) contributions under 5 U.S.C. 8432(c)(1) or 8432(c)(3) and agency matching contributions under 5 U.S.C. 8432(c)(2).

Employing agency means the organization that employs an individual eligible to contribute to the TSP and that has authority to make personnel compensation decisions for the individual.

Employing agency error means any act or omission by an employing agency that is not in accordance with all applicable statutes, regulations, or administrative procedures, including internal procedures promulgated by the employing agency and TSP procedures provided to employing agencies by the Board.

FERCCA correction means the correction of a retirement coverage error pursuant to the Federal Erroneous Retirement Coverage Corrections Act.

Late contributions means: employee contributions that were timely deducted from a participant's basic pay but were not timely reported to the TSP record keeper for investment; employee contributions that were timely reported to the TSP but were not posted to the participant's account by the TSP

because the payment record on which they were submitted contained errors; and attributable agency matching contributions and agency automatic (1%) contributions that were not timely reported.

Lost earnings record means a data record containing information enabling the TSP system to compute lost earnings.

Makeup contributions are employee contributions that should have been deducted from a participant's basic pay, or employer contributions that should have been charged to an employing agency, on an earlier date but were not deducted or charged and, consequently, are being deducted or charged currently.

Negative adjustment means the removal of money from a participant's TSP account by an employing agency.

Negative adjustment record means a data record submitted by an employing agency to remove money from a participant's TSP account previously submitted in error.

Pay date means the date established by an employing agency for payment of its employees.

Payment record means a data record submitted by an employing agency to report contributions or loan payments to a participant's TSP account.

Record keeper error means any act or omission by the TSP record keeper that is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants.

TSP record keeper means the entity that is engaged by the Board to perform record keeping services for the Thrift Savings Plan. As of the date of publication of this part, the TSP record keeper is the National Finance Center, United States Department of Agriculture, located in New Orleans, Louisiana.

4. Section 1606.5 is revised to read as follows:

§ 1606.5 Failure to timely make or deduct TSP contributions when participant received pay.

(a) If a participant receives pay, but as the result of an employing agency error all or any part of the agency automatic (1%) contribution associated with that pay to which the participant is entitled is not timely received by the TSP record keeper, then the makeup or late contributions will be subject to lost earnings. In such cases:

(1) The employing agency must, for each pay period involved, submit to the TSP record keeper a lost earnings record indicating the pay date for which the contributions would have been made had the error not occurred (i.e., the beginning date), the investment fund to which the contributions would have been deposited had the error not occurred if the beginning date on the record was before May 1, 2001, the amount of the contributions, and the pay date for which the contributions were actually made. If the beginning date on the record was on or after May 1, 2001, the TSP record keeper will use the contribution allocation of record for the beginning date and calculate lost earnings;

(2) The TSP record keeper will compute the amount of lost earnings associated with each lost earnings record submitted by the employing agency pursuant to paragraph (a)(1) of this section. In performing the computation, the TSP record keeper will not take into consideration any interfund transfers;

(3) Where the lost earnings computed in accordance with paragraph (a)(2) of this section are positive, the TSP record keeper will charge that amount to the appropriate employing agency and will credit the participant's TSP account. If the lost earnings are negative, the amount computed will be removed from the participant's account and used to offset TSP administrative expenses; and

(4) The lost earnings will be posted to the participant's account pro rata to all investment funds within the same source of contributions based on the most recent valued account balance.

(b) If a participant receives pay from which employee contributions were properly deducted, but as a result of an employing agency error all or any part of the associated agency matching contributions to which the participant is entitled were not timely received by the TSP record keeper, then the makeup agency contributions will be subject to lost earnings. In such cases, the procedures described in paragraphs (a)(1) through (a)(4) of this section will apply to the makeup agency matching contributions.

(c) If a participant receives pay from which employee contributions were properly deducted, but as the result of an employing agency error all or any part of those employee contributions were not timely received by the TSP record keeper, or if the employee contributions were received in connection with a FERCCA correction, the makeup employee contributions will be subject to the procedures described in paragraphs (a)(1) through (a)(4) of this section.

(d) Except for employee contributions received in connection with a FERCCA correction, if a participant receives pay from which employee contributions should have been deducted but, as the result of employing agency error, all or any part of those deductions were not made, the makeup employee contributions will not be subject to lost earnings even if the participant makes up the employee contributions pursuant to part 1605 of this chapter. However, where the participant makes up the employee contributions pursuant to part 1605, the agency matching contributions associated with the makeup employee contributions (which must be made in accordance with part 1605) will be subject to lost earnings. With respect to such makeup agency matching contributions the procedures described in paragraphs (a)(1) through (a)(4) of this section will apply.

5. Section 1606.7 is revised to read as follows:

§ 1606.7 Contributions to incorrect investment fund made before May 1, 2001.

Where, as the result of an employing agency error, money was deposited to a participant's TSP account in an incorrect investment fund(s), the erroneous contribution will be subject to lost earnings if a claim is submitted within the time limits set forth in § 1605.16(a)(2) of this chapter. In such cases:

(a) The employing agency must submit a lost earnings record indicating the amount of the contributions submitted to the incorrect investment fund(s), the pay date for which it was submitted, the investment fund(s) to which it would have been deposited had the employing agency error not occurred, and the investment fund(s) to which it was actually deposited;

(b) The TSP record keeper will compute the amount of lost earnings associated with each lost earnings record submitted by the employing agency pursuant to paragraph (a)(1) of this section. The TSP record keeper will not take into consideration any interfund transfers; and

(c) Where the lost earnings computed in accordance with paragraph (a)(2) of this section are positive, the TSP record keeper will charge the amount of lost earnings computed to the appropriate employing agency and will credit that amount to the account of the participant involved. If the earnings computed are negative, the amount computed will be removed from the participant's account and used to offset TSP administrative expenses.

(d) The lost earnings will be posted to the participant's account pro rata to all investment funds within the same source of contributions based on the most recent valued account balance.

6. Section 1606.8 is revised to read as follows:

§ 1606.8 Late payroll submissions.

All contributions on payment records contained in a payroll submission received from an employing agency and processed by the TSP record keeper more than 30 days after the pay date associated with the payroll submission (as reported on Form TSP–2, Certification of Transfer of Funds and Journal Voucher) will be subject to lost earnings, as follows:

(a) The TSP record keeper will generate a lost earnings record for each payment record contained in the late payroll submission. The lost earnings records generated by the TSP record keeper will reflect that the contributions on the payment records should have been made on the pay date associated with the payroll submission, that the contributions should have been deposited to the investment fund(s) indicated on the payment records if the pay date was before May 1, 2001, or based on the participant's contribution allocation on file as of the pay date if the pay date was on or after May 1, 2001, and that the contributions were actually made on the date the late payroll submission was processed.

(b) The procedures applicable to lost earnings records submitted by employing agencies which are set forth in paragraphs (a)(2) through (a)(4) of § 1606.5 will be applied to lost earnings records generated by the TSP record keeper pursuant to paragraph (a)(1) of this section.

7. Section 1606.9 is amended by revising paragraph (a)(3) as follows:

§ 1606.9 Loan allotments.

(a) * * *

(3) The lost earnings will be posted to the participant's account pro rata to all investment funds within the same source of contributions based on the most recent month-end valued account balance.

* * * * *

8. Section 1606.11 is amended by revising paragraphs (c), (d), and (e) and by adding a new paragraph (f) as follows:

§ 1606.11 Agency submission of lost earnings records.

* * * * *

(c) Where this part requires the employing agency to indicate on a lost earnings record the investment fund to which a contribution would have been deposited had an employing agency error not occurred, that determination must be made solely on the basis of a properly completed allocation election that was accepted by the employing agency *before* the date the contribution should have been made, and that was still in effect as of that date. Where no such allocation election was in effect as of the date the contribution would have been made had the error not occurred, the lost earnings record submitted by the employing agency must indicate that the contributions should have been made to the G Fund.

(d) With respect to employing agency errors that cause money not to be invested in the Thrift Savings Fund, lost earnings records may not be submitted until the money to which the lost earnings relate has been invested in the Thrift Savings Fund. Where the employing agency error involved delayed TSP contributions, no lost earnings will be payable unless the associated payment records are submitted in accordance with the provisions of 5 CFR part 1605. Lost earnings records and the delayed payment records to which they relate should be submitted simultaneously.

(e) Where an employing agency erroneously submits a lost earnings record that is processed by the TSP record keeper, the employing agency must consult with the Board or TSP record keeper to determine the method to be used in removing the erroneous lost earnings.

(f) Lost earnings records that contain contributions for which lost earnings must be determined at the G Fund rate of return pursuant to 5 CFR 1605.22(a)(4) or 1605.41(a)(3) must be accompanied by the special Journal Voucher, Form TSP–2–EG.

9. Section 1606.13 is amended by removing paragraph (g) and by revising paragraphs (a), (b), and (c) as follows:

§ 1606.13 Calculation and crediting of lost earnings.

(a) Lost earnings records submitted or generated pursuant to this part will be processed by the TSP record keeper monthly.

(b) Lost earnings records received, edited, and accepted by the TSP record keeper by the next-to-last business day of a month will be processed in the processing cycle for the month following acceptance. Lost earnings records received, edited, and accepted by the TSP record keeper on the last business day of a month will be processed in the processing cycle for the second month following acceptance.

(c) In calculating lost earnings attributable to a lost earnings record, earnings and losses for different sources of contributions or investment funds within a source will not be offset against each other.

* * * * *

10. Section 1606.15 is amended by revising paragraph (a) as follows:

§ 1606.15 Time limits on participant claims.

(a) Participant claims for lost earnings pursuant to § 1606.14 of this part must be filed within six months of the participant's receipt of the earliest of a TSP participant statement, TSP loan statement, employing agency earnings and leave statement, or any other document that indicates that an employing agency error has affected the participant's TSP account.

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10 CFR Part 30

[Docket No. PRM–30–64]

Charles T. Gallagher, Gammatron, Inc.; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking submitted by Charles T. Gallagher of Gammatron, Inc. (PRM–30–64). The petitioner requested that NRC amend its regulations regarding financial assurance for decommissioning funding. The NRC is denying the petition because the information presented in the petition does not support a basis for changing the existing regulations.

ADDRESSES: Copies of the petition for rulemaking, the public comments received, and the NRC's letter to the petitioner are available for public inspection or copying in the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike, Room O–1F23, Rockville, MD.

These documents are available on NRC's rulemaking website at *http://ruleforum.llnl.gov.* For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301–415–5905 *(e-mail:CAG@nrc.gov).*

FOR FURTHER INFORMATION CONTACT: Clark Prichard, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: (301) 415–6203, *cwp@nrc.gov.*

SUPPLEMENTARY INFORMATION:

The Petition

On August 11, 2000 (65 FR 49207), the NRC published a notice of receipt of a petition for rulemaking filed by Charles T. Gallagher, of Gammatron, Inc., Houston , Texas. The petitioner requested that NRC amend its financial assurance requirements for materials licensees.

The petitioner requested that NRC amend its requirements in the following principal respects, or address the following issues:

(1) NRC should provide a greater opportunity for comment to Agreement State licensees when new regulations are put in place. The petitioner states that Agreement state licensees were not provided adequate opportunity for comment when the financial assurance requirements were established.

(2) The petitioner believes that NRC's financial assurance requirements are arbitrary. The petitioner advocates basing the amount of financial assurance required on other factors in addition to possession limits because safety programs in smaller licensees may be not as good as those carried out by larger licensees.

(3) The petitioner wanted financial assurance to be required of all licensees, not just the larger licensees.

(4) The petitioner believes that additional mechanisms for financial assurance should be established that impose less of a financial burden on small businesses. According to the petitioner, the NRC should add financial assurance mechanisms that allow the cost of financial assurance to be spread out over time.

(5) Finally, the petitioner wanted the NRC regulations to exempt orphan sources from financial assurance requirements. The petitioner believes that there are no disposal facilities that accept this waste, so that requiring financial assurance for licensees possessing this type of waste is unnecessary.

Public Comments on the Petition

Four comments were received, including one from the petitioner. The following is a summary of the comments received.

1. American College of Nuclear Physicians/ Society of Nuclear Medicine

This comment opposes the portion of the petition requesting that NRC modify it's financial assurance regulations to require financial assurance of all licensees. The letter expresses no comment on the rest of the petition, but states that ample opportunity for comment on the financial assurance regulations was provided the petitioner.

2. State of Texas, Department of Health, Bureau of Radiation Control

This comment states that the petitioner, along with other licensees in Texas, and the general public, had opportunity to comment on regulations established for financial assurance. The commenter does not agree that financial assurance should be required for all licensees. The letter also disagrees with the petitioner's belief that financial assurance should be provided by a small business licensee over a longer period of time, rather than all at one time upon licensing. The letter agrees with the petitioner's belief that it is impractical for regulatory agencies to determine the costs of disposal of orphan waste.

3. Nuclear Energy Institute

The Nuclear Energy Institute (NEI) believes that Agreement States and their licensees had adequate opportunity for comment on the financial assurance regulations, and that licensed facilities had ample time to prepare for the funding requirement imposed by the regulations. NEI does not support the petitioner's request that all licensees have financial assurance. Some licensees handle materials that do not require a decommissioning fund, and other types of licensees should not be required to tie up capital as financial assurance that could be used for better purposes. NEI believes that current regulations allow a licensee to accumulate funds during the life of a facility, citing the example of a licensee initially posting a bond and retiring it with a sinking fund. NEI disagrees with the petitioner's point that licensees possessing greater than Class C waste be exempted from financial assurance requirements. NEI states that disposal is only one part of decommissioning. The licensee must have funding available to clean up a site and package the waste for disposal. NEI states that the Department of Energy (DOE) will currently accept greater than Class C waste if there is no alternative for storage or other facility that can accept the waste.

4. Charles T. Gallagher, Gammatron, Inc.

The petitioner sent in a comment responding to other comments that were posted on NRC's website. The petitioner notes that few comments were received and faults the regulatory agencies for not adopting a method to notify more of the public of regulatory actions, such as by e-mail. The petitioner responds to the American College of Nuclear Physicians/Society of Nuclear Medicine (ACNP/SNM) comment by stating that ample opportunity for comment on the financial assurance regulations was not provided. He also opposes the statement in the ACNP/SNM letter that nuclear medicine licensees provide a public benefit, stating that industrial licensees also provide a public benefit.

Reasons for Denial

1. *Issue—Agreement State Licensees Were not Provided Opportunity to Comment on the Original Financial Assurance Regulations.* The petitioner states that Agreement State licensees were not provided an opportunity to comment on the original financial assurance regulations and that the NRC accepted comments only from NRC licensees and Agreement State regulatory personnel. The petitioner further states that Agreement State regulatory agencies did not request comments from their licensees, and that they did not recognize the impact that the rulemaking represented.

Response. The financial assurance requirements for materials licensees were established as part of the decommissioning rule, ''General Requirements for Decommissioning Nuclear Facilities'' promulgated in 1988. The proposed decommissioning rule was issued for public comment on February 11, 1985 (50 FR 5600). NRC received comments from 143 groups or individuals, including 10 comment letters from Agreement States on a variety of issues, including financial assurance. Comments were accepted from all groups and individuals; NRC did not impose any restrictions, such as accepting comments ''only from NRC licensees and from Agreement State regulatory personnel,'' as stated by the petitioner. Since that time, the financial assurance for decommissioning regulations have been amended several times. In each case, the proposed amendments were published for public comment, and comments were received from a wide range of State governments, trade associations, individuals, and businesses.

There is no basis to the petitioner's argument that Agreement State licensees were not provided an opportunity to comment on the original financial assurance regulations by the NRC. The comment letter from the State of Texas indicates that Texas offered its licensees and the general public an opportunity to comment on Texas' equivalent financial assurance regulations, when they were published in 1993.

2. *Issue—Financial Assurance Should Not be Based on Amounts of Material Possessed.* The petitioner states that current financial assurance requirements, which are based on the

quantity of licensed material possessed, are arbitrary. The petitioner disputes the premise that risk is greater for licensees that possess larger quantities of materials on the basis that these larger licensees often have more extensive safety programs and more careful handling procedures. According to the petitioner, the amount of financial assurance required should not be based on possession limits.

Response. The basis for NRC's financial assurance requirements is not arbitrary. Quantities and types of materials are considered. Larger amounts of materials used by a licensee generally require larger amounts of financial assurance. Possession of an equivalent amount of radioactive material in the form of sealed sources has lower financial assurance amount requirements than if the material is in unsealed form. The NRC stated its belief in the general principle of basing financial assurance on type and quantity of material in an amendment to the decommissioning requirements published in 1995. Addressing the 1988 decommissioning rule, the NRC said ''The rule established a graded structure for financial assurance that is based on the assumption that the kinds and quantities of radioactive materials authorized in the license provide a reasonably good correlation to the amount of contamination that has to be remediated.'' (60 FR 38235; July 26, 1995—final rule ''Clarification of Decommissioning Funding Requirements''). The NRC continues to support this view. NRC's experience to date with the financial assurance program for materials licensees does not indicate that a change in emphasis away from possession limits is needed.

The petition does not recognize that a licensee has the option under current NRC regulations of not using the certification amounts, which are based on possession limits, as a basis for financial assurance. The regulations on financial assurance in Parts 30, 40, and 70 allow licensees (except for licensees using very large quantities of materials) to use one of two methods for determining the amount of financial assurance required. The methods are either: to submit a decommissioning plan with a cost estimate, or use one of the certification amounts. A licensee may submit a decommissioning plan that includes a decommissioning cost estimate. This estimate may take into account other factors in addition to type and amount of material possessed. The estimate, when approved by NRC, becomes the basis for the amount of financial assurance required. Most materials licensees that are required to have financial assurance choose to use one of the certification amounts, instead of submitting a facility-specific decommissioning cost estimate.

The State of Texas comment letter notes that the petition appears to ignore potential costs of disposal of materials, focusing only on decontamination costs. Decommissioning costs associated with disposal depend directly on the quantity of material possessed by a licensee. From this perspective, basing financial assurance on possession limits is a sound method of ensuring that decommissioning costs are fully covered.

Regarding the petitioner's argument that larger licensees have more extensive safety programs and more careful handling procedures, the petitioner has not set forth any supporting material for this assertion and, therefore, has not provided a basis in this respect for a rulemaking to amend the regulations.

The petition does not provide sufficient information on decommissioning costs or how to establish a new financial assurance system to provide a basis for the NRC to consider changing to an alternative method for establishing financial assurance requirements.

3. *Issue—Require Financial Assurance for All Materials Licensees.* The petitioner states that financial assurance should be required of all licensees.

Response. The decommissioning rule required financial assurance only of large licensees because the NRC considered that the risks involved when adequate funds are not available for timely decommissioning vary according to the amount and type of radioactive materials that a licensee may possess. Financial assurance, except for instances where a letter of intent or parent or self guarantee is used,[1] is a cost burden on a licensee. In deciding what licensees should be required to have financial assurance, NRC must weigh the potential decommissioning costs that might be required for categories of licensees against the cost burden on licensees to provide that financial assurance. The majority of licensees do not possess a quantity of radioactive materials likely to pose significant risks to public health and safety. Therefore, financial assurance would be an unnecessary burden for these licensees. Type of licensed material possessed is also a factor, as the risks from sealed sources were considered lower than material in unsealed form.

The petitioner has not provided a sufficient basis for changing this approach. The comment from the Society of Nuclear Medicine and American College of Radiology states that imposing financial assurance on smaller licensees would be an unnecessary burden on these licensees. There is inadequate information in the petition to justify imposing the burden of financial assurance on all NRC licensees.

4. *Issue—Spreading Over Time the Funding of Financial Assurance.* The petitioner states that financial assurance requirements are too burdensome for small business. Licensees should not be required to provide financial assurance at one time, upon licensing, but should be allowed to fund it over the life of the licensed facility. The Environmental Protection Agency (EPA) and its designated State agencies allow this type of funding. Large businesses and public institutions are the only types of licensee that can obtain surety bonds, parent company guarantees, etc. If the purpose of financial assurance regulations is to require licensee cleanup of their facilities, rather than taxpayer funded cleanup, the regulations must allow a method of providing financial assurance that does not force the small business licensee out of business.

Response. This issue was considered in the decommissioning rulemaking (50 FR 5600; February 11, 1985). The types of financial assurance mechanisms required of licensees take into account the stability of the source of revenues to the licensee. In the NRC's financial assurance regulations, only electric utilities, as defined in 10 CFR 50.2, were provided an opportunity to use sinking funds.[2] Under a regulated electric utility system where a utility is granted a monopoly in providing electric service, revenues would be stable and thus sources of funding were reasonably predictable. The regulator could adjust the price of electric service so that a utility would have revenues sufficient for decommissioning. Even premature shutdown of a plant, before the sinking fund fully covered decommissioning costs, could be accommodated by a regulatory authority that allowed the

[1] A government operated licensee may use a statement from an official of that government that decommissioning costs will be covered. A qualifying parent company may guarantee that decommissioning costs of a subsidiary will be covered. A company or nonprofit institution may ''self-guarantee'' decommission obligations if it passes a rigorous financial test.

[2] NRC does allow materials licensees to use a sinking fund, but only in combination with another type of financial assurance mechanism so that the decommissioning obligation is always fully funded at any time during licensed operations.

utility to recover decommissioning costs from utility service area ratepayers. For other licensees, it is the NRC's position that the required amount of financial assurance for decommissioning must be available when operations commence. Revenues are not stable and predictable, and there is a possibility that the licensee could cease operations prior to the sinking fund being fully funded. To guard against this possibility, the full amount of financial assurance required to decommission a facility was required ''up front''.

The Commission further recognized this principle in the recent rulemaking on financial assurance for power reactor licensees (Financial Assurance Requirements for Decommissioning Nuclear Power Reactors—63 FR 50465; September 22, 1998). Under the new requirements, designed to address potential electric utility deregulation, when a reactor licensee loses its regulated monopoly status, it is no longer allowed to use a sinking fund, and must provide the full amount of financial assurance up front.

This does not mean that licensees not using a sinking fund cannot pay for financial assurance over a long time frame. Several financial assurance mechanisms permit this approach. A surety bond or letter of credit can be used to provide financial assurance; the cost of these mechanisms is on a yearly or multi-yearly basis. A licensee may use a sinking fund, in combination with a surety bond or another mechanism that covers the portion of required financial assurance not covered by accumulated funds in the sinking fund. Also, several financial assurance mechanisms—statement of intent, and parent and self guarantee—do not impose any direct costs on the licensee. However, it is true that these guarantee mechanisms are not likely to be available to most small business licensees.

EPA does allow a graduated trust to be used for financial assurance under several of its regulations applicable to solid waste management, hazardous waste management, and other types of facilities. For example, EPA's regulations at 40 CFR 264.143, ''Financial assurance for closure,'' allow financial assurance to be provided by annual payments into a trust fund over a period that is the shorter of (1) the term of the initial RCRA permit, or (2) the remaining life of the facility. However, these EPA financial assurance regulations generally apply to all regulated facilities, even the smallest. In contrast, NRC's financial assurance regulations apply only to the largest licensees; less than 15 percent of NRC materials licensees are required to provide financial assurance. NRC's financial assurance requirements thus pose less of a regulatory burden on smaller licensees.

The petitioner does not present sufficient information to warrant a change by NRC in its regulations.

5. *Issue—Financial Assurance for Orphan Sources.* The petitioner states that orphan waste (waste which has no disposal ''home'') should be exempted from financial assurance requirements because the DOE is responsible for disposal of this category of waste. A licensee that has this type of waste should not be required to calculate and fund its disposal when there is no disposal site that will accept it. An example cited by the petitioner where DOE has taken steps to implement the responsibility that the petitioner addresses, is americium-241. The DOE is compiling a list of unwanted or abandoned sources for the ultimate recovery of the americium-241.

Response: Orphan sources do pose a significant problem for a licensee. DOE, NRC, EPA, and State regulatory agencies are all working to address this issue, and ensure that proper disposition is provided for orphan sources. DOE has initiated a pilot program, working with NRC, to identify orphan sources. However, this program is in the pilot stage, and DOE does not now have a program in place to accept all orphan sources. Moreover, DOE is required by law to recover costs of any program that is established by charging a disposal fee to accept orphan sources.

Financial assurance is especially important for orphan sources. Many of these sources are accepted by waste brokers either for reuse or for storage. However, the cost of using these services can be very high. Using the example of americium-241, costs are significantly higher relative to other isotopes.

In addition to funding of disposal costs, there are other decommissioning cost concerns involved in this issue, as noted in the Nuclear Energy Institute comment. A damaged/leaking source could cause contamination at a licensee's facility, which would need remediation. Waste packaging would also require funding. Thus, the rationale for requiring financial assurance would remain, even if disposal were assured by DOE. It is premature to change NRC's financial assurance regulations until a national orphan source recovery program is fully implemented. At that time, a review of financial assurance amounts required for these types of sources may be warranted.

For reasons cited in this document, the NRC denies the petition.

Dated at Rockville, Maryland, this 28 day of March, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–9731 Filed 4–18–01; 8:45 am]

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

RIN 3064–AC49

Being Engaged in the Business of Receiving Deposits Other Than Trust Funds

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: Under section 5 of the Federal Deposit Insurance Act, an applicant for deposit insurance must be ''engaged in the business of receiving deposits other than trust funds''. This requirement was interpreted in General Counsel Opinion No. 12, which was published by the FDIC in March of 2000.

The FDIC is proposing to replace General Counsel Opinion No. 12 with a regulation. The purpose of promulgating a regulation would be to clarify the requirement that an insured depository institution be ''engaged in the business of receiving deposits other than trust funds''. Under the proposed regulation, this requirement would be satisfied by the continuous maintenance of one or more non-trust deposit accounts in the aggregate amount of $500,000.

DATE: Written comments must be received on or before July 18, 2001.

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. (facsimile number (202) 898–3838; Internet address: *comments@fdic.gov* <*mailto:comments@fdic.gov*>). Comments may be posted on the FDIC internet site at *http://www.fdic.gov/regulations/laws/federal/propose.html* and may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, DC 20429, between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Christopher L. Hencke, Counsel, Legal Division, (202) 898–8839, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. The Statute

The FDIC is authorized to approve or disapprove applications for federal deposit insurance. See 12 U.S.C. 1815. In determining whether to approve deposit insurance applications, the FDIC considers seven factors set forth in the Federal Deposit Insurance Act (FDI Act). These factors are (1) the financial history and condition of the depository institution; (2) the adequacy of the institution's capital structure; (3) the future earnings prospects of the institution; (4) the general character and fitness of the management of the institution; (5) the risk presented by the institution to the Bank Insurance Fund or the Savings Association Insurance Fund; (6) the convenience and needs of the community to be served by the institution; and (7) whether the institution's corporate powers are consistent with the purposes of the FDI Act. 12 U.S.C. 1816. Also, under the FDI Act, the FDIC must determine as a threshold matter that an applicant is a ''depository institution which is engaged in the business of receiving deposits other than trust funds * * *.'' 12 U.S.C. 1815(a)(1). Applicants that do not satisfy this threshold statutory requirement are ineligible for deposit insurance.

The FDIC applies the seven statutory factors in accordance with a ''Statement of Policy on Applications for Deposit Insurance''. See 63 FR 44752 (August 20, 1998). The Statement of Policy discusses each of the factors at length; however, it does not address the threshold requirement that an applicant be ''engaged in the business of receiving deposits other than trust funds''.

The threshold requirement for obtaining federal deposit insurance is set forth in section 5 of the FDI Act. See 12 U.S.C. 1815(a)(1). The language used by section 5 (''engaged in the business of receiving deposits other than trust funds'') also appears in section 8 and section 3 of the FDI Act. Under section 8, the FDIC is obligated to terminate the insured status of any depository institution ''not engaged in the business of receiving deposits, other than trust funds * * *.'' 12 U.S.C. 1818(p). In section 3, the term ''State bank'' is defined in such a way as to include only those State banking institutions ''engaged in the business of receiving deposits, other than trust funds * * *.'' 12 U.S.C. 1813(a)(2).

The statute is ambiguous. For example, it does not specify whether a depository institution must hold a particular dollar amount of deposits in order to be ''engaged in the business of receiving [non-trust] deposits''. Similarly, it does not specify whether a depository institution must accept a particular number of deposits within a particular period in order to be ''engaged in the business of receiving [non-trust] deposits''. In addition, it does not specify whether a depository institution must accept non-trust deposits from the general public as opposed to accepting deposits only from one or more members of a particular group (such as the institution's trust customers or employees or affiliates).

One possible interpretation is that an insured depository institution must receive a continuing stream of non-trust deposits from the general public. This interpretation would be based upon the statute's use of the word ''receiving'' (suggesting repetition) and the plural word ''deposits''.

Another possible interpretation is that an insured depository institution may hold—and periodically renew—a limited number of deposit accounts or even a single deposit account. This interpretation would be based upon the fact that the statute defines ''deposit'' in such a way as to equate ''receiving'' and ''holding.'' See 12 U.S.C. 1813(l)(1). Also, the statute recognizes that a single deposit can be accepted or ''received'' many times through rollovers. See 12 U.S.C. 1831f(b). Indeed, the periodic accrual of interest on a single deposit represents the ''receiving'' of multiple new ''deposits''. Although the depositor might withdraw the interest regularly (rather than allowing the interest to be added to the principal), the accrued interest nonetheless would be a ''deposit'' until such withdrawal. See 12 CFR 330.3(i)(1) (for insurance purposes, a deposit consists of principal plus ascertainable interest as of the date of the depository institution's failure).

The ambiguity of the statute results from the nature of the banking business. The opening of a deposit account does not represent a completed, isolated transaction. Rather, the opening of an account initiates a continuing business relationship with periodic withdrawals, deposits, rollovers and the accrual of interest. These deposits, rollovers and accruals represent the ''receiving'' of ''deposits''.

In applying the statutory standard (''engaged in the business of receiving deposits other than trust funds''), the FDIC has approved applications from many institutions that did not intend to accept non-trust deposits from the general public. Also, the FDIC has approved applications from institutions that only intended to hold one type of deposit account (*e.g.,* certificates of deposit) or that did not intend to hold more than one or a few non-trust deposit accounts. The FDIC's long-standing practice of approving applications from such non-traditional depository institutions has not been sufficient to remove uncertainty as to the meaning of being ''engaged in the business of receiving deposits other than trust funds.'' In order to clarify its interpretation of the law, the FDIC published General Counsel Opinion No. 12. This opinion is discussed in greater detail below.

II. General Counsel Opinion No. 12

In March of 2000, the FDIC published General Counsel Opinion No. 12. See 65 FR 14568 (March 17, 2000). General Counsel Opinion No. 12 is attached as an appendix. In that opinion, the FDIC's General Counsel stated that the statutory requirement of being ''engaged in the business of receiving deposits other than trust funds'' can be satisfied by the continuous maintenance of one or more non-trust deposit accounts in the aggregate amount of $500,000.

General Counsel Opinion No. 12 is based upon a number of factors. First, the statute is ambiguous (as discussed above). Second, as discussed at length in General Counsel Opinion No. 12, the legislative history is inconclusive. See H.R. Rep. No. 2564, reprinted in 1950 U.S.C.C.A.N. 3765, 3768. Third, the FDIC has approved applications from many non-traditional depository institutions that did not intend to maintain more than one or a very limited number of non-trust deposit accounts (as mentioned above). This practice began at least as early as 1969 with Bessemer Trust Company (Bessemer) located in Newark, New Jersey. Bessemer offered checking accounts to its own trust customers but did not offer checking accounts or any other type of non-trust accounts to the general public. Despite this limitation on Bessemer's deposit-taking activities, the FDIC approved Bessemer's application for deposit insurance. The FDIC continued to approve such applications (i.e., applications from institutions with very limited deposit-taking activities) from the 1970s to the present. These non-traditional depository institutions have included trust companies, credit card banks and other specialized institutions. For example, one depository institution planned to hold no accounts except escrow accounts relating to mortgage loans. Another depository institution

planned to offer deposits to nobody except its affiliate's customers.

Fourth, the Bank Holding Company Act (BHCA) contemplates the existence of depository institutions that are insured by the FDIC even though they do not accept a continuing stream of non-trust deposits from the general public. See 12 U.S.C. 1841(c). In the BHCA, the definition of ''bank'' includes banks insured by the FDIC. See 12 U.S.C. 1841(c)(1). A list of exceptions includes institutions functioning solely in a trust or fiduciary capacity if several conditions are satisfied. The conditions related to deposit-taking are: (1) All or substantially all of the deposits of the institution must be trust funds; (2) insured deposits of the institution must not be offered through an affiliate; and (3) the institution must not accept demand deposits or deposits that the depositor may withdraw by check or similar means. See 12 U.S.C. 1841(c)(2)(D)(i)–(iii). The significant conditions are (1) and (2). The first condition provides that all or substantially all of the deposits of the institution must be trust funds; the second condition involves ''insured deposits''. Thus, the statute contemplates that a trust company—functioning solely as a trust company and holding no deposits (or substantially no deposits) except trust deposits—could hold ''insured deposits''. In other words, the BHCA contemplates (without requiring) that an institution could be insured by the FDIC even though the institution does not accept non-trust deposits from the general public.

Fifth, the leading case indicates that a depository institution may be ''engaged in the business of receiving [non-trust] deposits'' even though the institution holds a very small amount of non-trust deposits. See Meriden Trust and Safe Deposit *Company* v. *FDIC,* 62 F.3d 449 (2d Cir. 1995). Indeed, this case indicates that an amount as small as $200,000 is a sufficient amount of non-trust deposits.

Sixth, some State banking statutes contemplate the existence of FDIC-insured depository institutions that are severely restricted in their ability to accept non-trust deposits from the general public. For example, a Virginia statute provides that a general business corporation may acquire the voting shares of a ''credit card bank'' only if certain conditions are satisfied. See Va. Code 6.1–392.1.A. These conditions comprise the definition of a ''credit card bank.'' See Va. Code 6.1–391. These conditions include the following: (1) The bank may not accept demand deposits; and (2) the bank may not accept savings or time deposits of less than $100,000. Indeed, the statute provides that a ''credit card bank'' may accept savings or time deposits (in amounts in excess of $100,000) only from affiliates of the bank having their principal place of business outside the State. See Va. Code 6.1–392.1.A.3–4. In other words, the Virginia statute prohibits the acceptance of any deposits from the general public. At the same time, the statute requires the deposits of the bank to be federally insured. See Va. Code 6.1–392.1.A.4.

Each of the factors above was discussed in detail in General Counsel Opinion No. 12. See 65 FR 14568 (May 17, 2000). The purpose of General Counsel Opinion No. 12 was to remove uncertainty as to the meaning of being ''engaged in the business of receiving deposits other than trust funds''. In fulfilling this purpose, the General Counsel opinion was unsuccessful. In a recent case known as *Heaton* v. *Monogram,* the statutory interpretation set forth in General Counsel Opinion No. 12 was rejected by a federal district court. See *Heaton* v. *Monogram Credit Card Bank of Georgia,* 2001 WL 15635 (E.D. La. January 5, 2001). In that case, the district court declared that the FDIC's interpretation ignores the statute because the statute refers to ''deposits'' in the plural. In the court's opinion, a depository institution cannot be ''engaged in the business of receiving deposits other than trust funds'' unless the institution maintains more than one deposit account.

As a result of the court's ruling, uncertainty continues to exist as to the meaning of being ''engaged in the business of receiving deposits other than trust funds''. Also, the court's ruling creates a situation with serious implications. The situation includes two components. First, the FDIC has extended federal deposit insurance to a particular financial institution on the basis that the financial institution is ''engaged in the business of receiving deposits other than trust funds''. Second, notwithstanding the action by the FDIC, the court has ruled that the financial institution is not ''engaged in the business of receiving deposits other than trust funds''. The implications of this situation (conflicting decisions by the FDIC and a court) are discussed below.

III. The Importance of Consistent Interpretations

The granting of an application for deposit insurance by the FDIC invests the depository institution with certain privileges. The FDIC does not extend these privileges as a matter of contract; rather, the privileges are statutory in nature. For example, the FDI Act provides that all deposits at an insured depository institution (i.e., an institution approved by the FDIC) are insured up to the $100,000 limit. See 12 U.S.C. 1815, 1816, 1821. This federal insurance will assist the depository institution in attracting depositors. Indeed, the depository institution often is required by its chartering authority to obtain federal deposit insurance as a condition to conducting business. See, e.g., Fla. Stat. 658.995(3); Va. Code 6.1–392.1.A.4.

Another example of a privilege or benefit is provided by section 27 of the Act, which enables State-chartered insured depository institutions to operate under a single State's interest rate laws rather than to operate under a separate set of laws for each State in which the institution conducts business. See 12 U.S.C. 1831d. As a result, an insured State nonmember bank is able to avoid certain State restrictions on fees and interest rates when operating outside the institution's State of incorporation.

The privileges and benefits arising under the Act are accompanied by certain responsibilities and restrictions. For example, insured depository institutions are subject to assessments by the FDIC. See 12 U.S.C. 1817. Also, insured depository institutions are required to operate in a safe and sound manner. See 12 U.S.C. 1818(b). Restrictions on lending are applicable. See 12 U.S.C. 1828(j). Another example of a restriction is provided by section 24 of the Act, which places limits on the activities of insured State banks. See 12 U.S.C. 1831a. In addition, insured State nonmember banks are subject to FDIC examinations. See 12 U.S.C. 1820(b). These include examinations for compliance with a number of Federal consumer laws. If violations of these laws are discovered, the bank is subject to enforcement actions. See, e.g., 12 U.S.C. 1818(b), 1818(e), 1818(i)(2).

Nothing in the FDI Act suggests that Congress intended depository institutions to enjoy the privileges arising under the Act without assuming the responsibilities. On the contrary, Congress created one broad scheme applicable to ''insured depository institutions''. Under this scheme, the deposits at a particular institution cannot be insured unless that institution is subject to assessments. Similarly, a State bank should not be able to avoid State fees and interest rates under section 27 of the Act unless the bank also is subject to the restrictions imposed by section 24. Conversely, a State bank should not be subject to the

restrictions imposed by section 24 unless the bank is able to enjoy the benefit of section 27.

For ''State banks'' (as opposed to federally chartered depository institutions), the benefits as well as the burdens provided by the Act rest upon the premise that the depository institution is ''engaged in the business of receiving deposits, other than trust funds.'' See 12 U.S.C. 1813(a)(2) (defining ''State bank'' in such a way as to include only those institutions ''engaged in the business of receiving deposits, other than trust funds''). For this reason, the phrase ''engaged in the business of receiving deposits other than trust funds'' should be interpreted consistently. It should not be interpreted one way under section 5 of the Act (involving applications for deposit insurance) and another way under section 24 (imposing restrictions on the activities of State banks) and yet another way under section 27 (enabling State banks to avoid certain restrictions on fees and interest rates). Similarly, a particular section of the Act incorporating the phrase (''engaged in the business,'' etc.) should not be interpreted one way by a court in one State but another way by a different court in another State. Inconsistent interpretations could lead to irrational results, e.g., the existence of a State bank insured by the FDIC (on the basis of a finding by the FDIC that the bank is ''engaged in the business of receiving deposits other than trust funds'') but free from the restrictions imposed by section 24 in one State (on the basis of a finding by a court in that State that the bank is not ''engaged in the business of receiving deposits other than trust funds'') but perhaps subject to such restrictions in another State (on the basis of a finding by a court in the second State that the bank is ''engaged in the business of receiving deposits other than trust funds'').

Arguably, the FDIC could create consistency by terminating the insured status of a depository institution whenever any court in any State determines that the institution is not ''engaged in the business of receiving deposits other than trust funds''. Perhaps the FDIC, at the same time, could terminate the insured status of all similar depository institutions. Such an approach would raise grave concerns for the owners and customers of the institutions. Also, such an approach would be unfair because the organizers of depository institutions should be able to rely on the FDIC's determination—in granting insurance—that the institutions are ''engaged in the business of receiving deposits other than trust funds.'' Finally, such an approach would ignore the fact that other courts in other States might view the same institutions as being ''engaged in the business of receiving deposits other than trust funds.''

Uniformity is needed. Both banks and the public need to know that the applicable Federal banking laws will be applied equally throughout the United States. Moreover, they need assurance that once the FDIC grants insurance to a bank or thrift, the deposits at that bank or thrift will remain insured.

At present, uniformity is threatened because the meaning of the statute is subject to doubt. Under the FDIC's interpretation as set forth in General Counsel Opinion No. 12, a depository institution is ''engaged in the business of receiving deposits other than trust funds'' if the institution holds one or more non-trust deposit accounts in the aggregate amount of $500,000. Under the interpretation adopted by the Heaton court, however, a depository institution cannot be ''engaged in the business of receiving deposits other than trust funds'' unless the institution holds some indeterminate number of deposit accounts greater than one.

The inconsistency between the FDIC's interpretation and a court's interpretation could produce irrational and harmful results. For this reason, the meaning of the statute must be clarified so that a uniform interpretation may be applied.

IV. The Petition

The promulgation of a regulation has been requested through a petition submitted to the FDIC's Board of Directors by the Conference of State Bank Supervisors (CSBS). This organization represents State officials responsible for chartering, regulating and supervising State-chartered banks.

An opposing letter has been submitted by the plaintiff in the *Heaton* v. *Monogram* litigation. In this opposing letter, the plaintiff has argued that the promulgation of a regulation at this time would represent an ''abuse of discretion'' and a ''conflict of interest''. The plaintiff believes that no regulation should be promulgated until the litigation is completed.

The FDIC does not agree that the initiation of the rulemaking process would constitute an ''abuse of discretion''. On the contrary, the FDIC believes that rulemaking is necessary in order to remove the existing uncertainty and confusion. See *Smiley* v. *Citibank, N.A.,* 517 U.S. 735, 116 S. Ct. 1730 (1996). Accordingly, the FDIC has decided to publish this notice of proposed rulemaking.

Of course, the publication of this notice does not mean that the FDIC necessarily will adopt the proposed rule as a final rule. The FDIC is interested in receiving comments from all interested members of the public—not just the plaintiff and the defendant in the Heaton litigation—because the final rule (if any) will be effective nationwide. The comments may address all aspects of the proposed rule.

Comments are requested to address all ambiguities in the statute. As previously mentioned, the statute does not specify whether a depository institution must hold a particular dollar amount of deposits in order to be ''engaged in the business of receiving deposits other than trust funds''. Similarly, the statute does not specify whether a depository institution must maintain a particular number of deposit accounts or accept a particular number of deposits within a particular period in order to be ''engaged in the business of receiving deposits other than trust funds''. Likewise, the statute does not specify whether a depository institution must accept non-trust deposits from the general public as opposed to accepting deposits from one or more members of a particular group (such as trust customers or employees or affiliates).

Over the years, the FDIC has granted deposit insurance to banks that intended to accept only one or a limited number of deposits from its trust customers, its employees, or its affiliates. The court in the Heaton litigation questioned whether a single deposit is adequate. In its recent ruling, the court noted that the statute refers to ''deposits'' in the plural. On the basis of this word (''deposits''), the court found that the FDIC had ''ignored'' the statutory language in adopting the interpretation set forth in GC12. See *Heaton* v. *Monogram Credit Card Bank of Georgia,* 2001 WL 15635, *3 (E.D. La. January 5, 2001).

In fact, the FDIC in GC12 discussed the statutory language at length. See 65 FR 14568, 14569 (March 17, 2000). As explained in GC12, the statute defines ''deposit'' in such a way as to equate ''receiving'' and ''holding''. See 12 U.S.C. 1813(l)(1). Moreover, the statute recognizes that a single deposit can be accepted or ''received'' many times through rollovers. See 12 U.S.C. 1831f(b) (dealing with the acceptance of brokered deposits). Thus, the word ''receiving'' in the statute can be reconciled with the holding—and periodic renewal or rollover—of a single certificate of deposit. Similarly, the plural word ''deposits'' is not inconsistent with the holding of a single deposit account because multiple

deposits of funds can be made into a single account. A depositor might, for example, make a deposit of funds every month into the same account. The accrual of interest would represent an additional deposit into the same account. In the case of a certificate of deposit, the deposit would be replaced with a new deposit at maturity.

In any event, the FDIC is interested in comments as to whether one deposit account should be considered enough. Also, the FDIC is interested in comments as to whether there should be a minimum amount of non-trust deposits. Commenters should explain the reasons supporting their opinions.

Under the proposed rule, a depository institution would be ''engaged in the business of receiving deposits other than trust funds'' if the institution maintains one or more non-trust deposit accounts in the aggregate amount of $500,000.

The figure of $500,000 is being proposed for several reasons. First, it is more than a nominal sum. Indeed, it is greater than the amount involved in the leading case of *Meriden Trust and Safe Deposit Company* v. *FDIC,* 62 F.3d 449 (2d Cir. 1995). In that case, the court found that only $200,000 of non-trust deposits was a sufficient amount. Second, the figure of $500,000 is not so great that it would prevent non-traditional depository institutions from obtaining FDIC insurance when necessary. As previously mentioned, the Bank Holding Company Act contemplates the existence of depository institutions that are insured by the FDIC even though they do not accept a continuing stream of non-trust deposits from the general public. See 12 U.S.C. 1841(c). Also, some State banking statutes contemplate the existence of FDIC-insured depository institutions that are severely restricted in their ability to accept non-trust deposits from the general public. See, e.g., Va. Code 6.1–392.1.A.4. Third, $500,000 is the amount of non-trust deposits allowed by the FDIC in recent years in connection with a number of applications for deposit insurance. Applications involving the precise amount of $500,000 can be traced as far back as 1991. This circumstance indicates that an understanding or expectation may have developed in the banking industry that the holding of $500,000 of non-trust deposits represents a reliable ''safe harbor.''

As previously explained, the purpose of the proposed regulation is to create uniformity and certainty. The choice of any specific dollar figure would serve this purpose. For the reasons set forth above, the FDIC has chosen $500,000. Commenters are free to suggest alternative amounts or alternative standards.

In summary, the FDIC is interested in comments as to whether the proposed $500,000 minimum level is appropriate or whether the minimum should be higher or lower and why. If a minimum level is to be established by regulation, the FDIC is interested in whether an exception should be made for a new depository institution (i.e., whether a new depository institution should be given a certain period of time to reach the minimum level).

The court in the Heaton litigation questioned the appropriateness of permitting a bank to accept deposits from its affiliates only as opposed to accepting deposits from the general public. The FDI Act does not specify whether deposits must originate from a particular source. In any event, the FDIC is interested in comments as to whether deposits must be accepted from the public at large or whether deposits may be limited to a particular group (such as the bank's trust customers or employees or affiliates).

Finally, the FDIC notes that banking has evolved over the years. The typical brick-and-mortar full-service bank is no longer the only type of institution offering banking services. Today, for example, Internet banks offer banking services through a medium never imagined when the FDIC was created. In light of these changes, the FDIC is interested in comments as to whether the adoption of a regulatory definition of being ''engaged in the business of receiving [non-trust] deposits'' might stifle innovation in the banking industry or stifle the development or evolution of new types of banks.

Request for Comments

The FDIC's Board of Directors (Board) is seeking comments on whether the agency should adopt a regulatory standard for determining whether a depository institution is ''engaged in the business of receiving deposits other than trust funds''. Under the proposed rule, a depository institution would be ''engaged in the business of receiving [non-trust] deposits'' if the institution maintains one or more non-trust deposit accounts in the amount of $500,000 or more.

Commenters are free to suggest different standards. Indeed, commenters are free to suggest that the FDIC at this time should adopt no standard. The Board invites comments on all of the following questions:

1. Should the FDIC adopt a regulatory standard for determining whether a depository institution is ''engaged in the business of receiving deposits other than trust funds''?

2. If so, should the standard be based on a particular number and/or amount of non-trust deposits? Or should the standard be based on other factors, such as the institution's legal authority to accept non-trust deposits or the institution's policies with respect to the acceptance of non-trust deposits?

3. Assuming a minimum amount of non-trust deposits is required, should the standard be based on a particular number of non-trust deposit accounts? If so, should that number be one? If not, what should be the minimum number of non-trust deposit accounts? Why?

4. Assuming that the standard should be based on a particular amount of non-trust deposits, should that amount be $500,000? If not, what should be the minimum amount of non-trust deposits? Why?

5. Should a depository institution be required to accept deposits from the public at large (as opposed to accepting deposits from a particular group such as the institution's trust customers or employees or affiliates) in order to be ''engaged in the business of receiving deposits other than trust funds''? If so, why?

6. Should a depository institution be required to offer a selection of different types of deposits (e.g., demand deposits, savings deposits, certificates of deposit) in order to be ''engaged in the business of receiving deposits other than trust funds''? If so, why?

7. Should the FDIC create any exceptions for special circumstances? For example, should a new institution be given a certain period of time to reach the minimum number of non-trust deposit accounts or to attain the minimum amount of non-trust deposits?

8. Should operating insured depository institutions be held to the same standard as applicants for deposit insurance? In other words, should the standard under section 8 of the FDI Act (involving terminations) be the same as the standard under section 5 (involving applications)? Should the FDIC terminate the insured status of any operating institution that does not meet the chosen standard? Should an operating insured institution be given a certain period of time to regain the level of $500,000 after falling below that level?

9. Should the same standard apply to the definition of ''State bank'' under section 3 of the FDI Act? If not, what standard should apply? Why?

Paperwork Reduction Act

The proposed rule would not involve any collections of information under the

Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Consequently, no information has been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

The proposed rule would not have a significant economic impact on a substantial number of small businesses within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The proposed rule would apply to all FDIC-insured depository institutions and would impose no new reporting, recordkeeping or other compliance requirements. Although the proposed rule specifies that depository institutions must hold non-trust deposits in the amount of $500,000 or more in order to be ''engaged in the business of receiving deposits other than trust funds,'' the rule does not create a new requirement. Rather, the proposed rule clarifies an existing requirement. Moreover, the proposed rule is consistent with the standard already applied to depository institutions by the FDIC. Accordingly, the Act's requirements relating to an initial regulatory flexibility analysis are not applicable.

Impact on Families

The proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

List of Subjects in 12 CFR Part 303

Administrative practice and procedure, Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Savings associations.

The Board of Directors of the Federal Deposit Insurance Corporation hereby proposes to amend part 303 of title 12 of the Code of Federal Regulations as follows:

PART 303—FILING PROCEDURES AND DELEGATIONS OF AUTHORITY

1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1813, 1815, 1816, 1817, 1818, 1819 (Seventh and Tenth), 1820, 1823, 1828, 1831a, 1831e, 1831o, 1831p–1, 1835a, 3104, 3105, 3108, 3207; 15 U.S.C. 1601–1607.

2. Add new § 303.14 to read as follows:

§ 303.14 Being ''engaged in the business of receiving deposits other than trust funds''.

For all purposes of the Act, a depository institution shall be ''engaged in the business of receiving deposits other than trust funds'' if the institution maintains one or more non-trust deposit accounts in the aggregate amount of $500,000 or more.

By order of the Board of Directors.

Dated at Washington, DC, this 10th day of April, 2001.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix

General Counsel's Opinion No. 12, Engaged in the Business of Receiving Deposits Other Than Trust Funds

By William F. Kroener, III, General Counsel

Introduction

The FDIC is authorized to approve or disapprove applications for federal deposit insurance. See 12 U.S.C. 1815. In determining whether to approve deposit insurance applications, the FDIC considers the seven factors set forth in the Federal Deposit Insurance Act (FDI Act). These factors are (1) the financial history and condition of the depository institution; (2) the adequacy of the institution's capital structure; (3) the future earnings prospects of the institution; (4) the general character and fitness of the management of the institution; (5) the risk presented by the institution to the Bank Insurance Fund or the Savings Association Insurance Fund; (6) the convenience and needs of the community to be served by the institution; and (7) whether the institution's corporate powers are consistent with the purposes of the FDI Act. 12 U.S.C. 1816. Also, the FDIC must determine as a threshold matter that an applicant is a ''depository institution which is engaged in the business of receiving deposits other than trust funds. . . .'' 12 U.S.C. 1815(a)(1). Applicants that do not satisfy this threshold requirement are ineligible for deposit insurance.

The FDIC applies the seven statutory factors in accordance with a ''Statement of Policy on Applications for Deposit Insurance.'' See 63 FR 44752 (August 20, 1998). The Statement of Policy discusses each of the factors at length; however, it does not address the threshold requirement that an applicant be ''engaged in the business of receiving deposits other than trust funds.''

The threshold requirement for obtaining federal deposit insurance is set forth in section 5 of the FDI Act. See 12 U.S.C. 1815(a)(1). The language used by section 5 (''engaged in the business of receiving deposits other than trust funds'') also appears in section 8 and section 3 of the FDI Act. Under section 8, the FDIC is obligated to terminate the insured status of any depository institution ''not engaged in the business of receiving deposits, other than trust funds. . . .'' 12 U.S.C. 1818(p). In section 3, the term ''State bank'' is defined in such a way as to include only those State banking institutions ''engaged in the business of receiving deposits, other than trust funds. . . .'' 12 U.S.C. 1813(a)(2). This definition is significant because the term ''State bank'' appears in a number of sections of the FDI Act.

For many years the FDIC has applied the statutory phrase on a case-by-case basis. In applying the phrase, the FDIC has approved applications from institutions that did not intend to accept non-trust deposits from the general public. The FDIC has thus found that the acceptance of non-trust deposits from the public at large is not a necessary component of being ''engaged in the business of receiving [non-trust] deposits.'' The acceptance of non-trust deposits from a particular group (such as affiliates or trust customers) has been deemed by the FDIC to be sufficient.

Prior to 1991 the Office of the Comptroller of the Currency (OCC) was responsible for determining whether new national banks would be ''engaged in the business of receiving [non-trust] deposits.'' See 12 U.S.C. 1814(b) (1980). The OCC similarly never adopted an interpretation that would require new national banks to accept non-trust deposits from the general public.

The long-standing practices of the FDIC and the OCC have not been sufficient to remove all questions as to the proper interpretation of being ''engaged in the business of receiving deposits other than trust funds.'' Questions have arisen from time to time about the application of the agencies' long-standing interpretation in the context of certain non-traditional depository institutions, such as credit card banks and trust companies.

The purpose of this General Counsel's opinion is to clarify the Legal Division's interpretation of being ''engaged in the business of receiving deposits other than trust funds.'' Although the primary purpose of this opinion is to provide guidance to applicants for deposit insurance under section 5 of the FDI Act, the interpretation in this opinion also applies to section 8 (dealing with terminations) and section 3 (definition of ''State bank'').

Factors

A number of factors must be considered in determining whether a depository institution should be regarded by the FDIC as ''engaged in the business of receiving deposits other than trust funds.'' These factors are (1) the statutory language; (2) the legislative history; (3) the practices of the FDIC and the OCC; (4) construction with other federal banking law; (5) the relevant case law; and (6) State banking statutes. Below, each of these factors is considered in interpreting the statutory phrase in the FDI Act.

Statutory Language

Under section 5 of the FDI Act an applicant cannot obtain federal deposit insurance unless it is ''engaged in the business of receiving deposits other than trust funds.'' 12

U.S.C. 1815(a)(1). The Act does not define ''engaged in the business of receiving deposits other than trust funds''; however, it defines ''deposit'' and ''trust funds.'' See 12 U.S.C. 1813(l); 12 U.S.C. 1813(p). The former term (''deposit'') includes but is not limited to the latter term (''trust funds''). See 12 U.S.C. 1813(l)(2). The latter term is defined as funds held by an insured depository institution in a fiduciary capacity, including funds held as trustee, executor, administrator, guardian or agent. See 12 U.S.C. 1813(p).

An applicant cannot be insured by the FDIC if it receives ''trust funds'' alone. Under section 5, it also must be engaged in the business of receiving non-trust or non-fiduciary deposits. Generally, the FDI Act defines ''deposit'' as the unpaid balance of money or its equivalent received or held by a bank or savings association in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time, or thrift account, or which is evidenced by its certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness or other such certificate. See 12 U.S.C. 1813(l)(1).

The corollary to section 5 of the FDI Act is section 8. Under the latter section the FDIC must terminate the insured status of any depository institution ''not engaged in the business of receiving deposits, other than trust funds * * * .'' 12 U.S.C. 1818(p). Significantly, section 8 does not provide for any judicial determination of whether a depository institution is ''not engaged in the business of receiving [non-trust] deposits'' or judicial review of the FDIC's finding on this issue. Rather, section 8 provides that the FDIC's finding is ''conclusive.'' See id.

The statutory phrase (''engaged in the business of receiving deposits, other than trust funds'') also appears in section 3. In that section, the term ''State bank'' is defined in such a way as to include only those State banking institutions ''engaged in the business of receiving deposits, other than trust funds * * * .'' 12 U.S.C. 1813(a)(2).

The statutory language is not unambiguous but requires interpretation by the FDIC in a number of respects. The statute does not specify whether a depository institution must hold a particular dollar amount of deposits in order to be ''engaged in the business of receiving [non-trust] deposits.'' Similarly, the statute does not specify whether a depository institution must accept a particular number of deposits within a particular period in order to be ''engaged in the business of receiving [non-trust] deposits.'' In addition, the statute does not specify whether a depository institution must accept non-trust deposits from the general public as opposed to accepting deposits from one or more members of a particular group (such as affiliates or trust customers). All these questions are unanswered and left to the FDIC for consideration and determination.

One possible interpretation is that an insured depository institution must receive a continuing stream of non-trust deposits from the general public. The statute refers to the ''receiving'' of ''deposits''; however, the statute also defines ''deposit'' in such a way as to equate ''receiving'' and ''holding.'' See 12 U.S.C. 1813(l)(1). Moreover, the statute recognizes that a single deposit can be accepted or ''received'' many times through rollovers. See 12 U.S.C. 1831f(b) (dealing with the acceptance of brokered deposits). Thus, the word ''receiving'' in the statute can be reconciled with the holding—and periodic renewal or rollover—of a single certificate of deposit. Similarly, the plural word ''deposits'' is not inconsistent with the holding of a single deposit account because multiple deposits of funds can be made into a single account. A depositor might, for example, make a deposit of funds every month into the same account. The accrual of interest would represent an additional deposit into the same account. In the case of a certificate of deposit, the deposit would be replaced with a new deposit at maturity.

The ambiguity of the statutory language results from the nature of the banking business. The opening of a deposit account does not represent a completed, isolated transaction. Rather, the opening of an account initiates a continuing business relationship with periodic withdrawals, deposits, rollovers and the accrual of interest. For this reason the statutory phrase (''engaged in the business of receiving deposits other than trust funds'') can be interpreted as encompassing the holding of one or few non-trust deposit accounts. Nothing in the statute specifies that an institution must receive a continuing stream of non-trust deposits from the general public.

Legislative History

The phrase ''engaged in the business of receiving deposits'' can be traced to the Banking Act of 1935 (Pub. L. 74–305). In that Act the term ''State bank'' was defined as any bank, banking association, trust company, savings bank or other banking institution ''which is engaged in the business of receiving deposits.'' This qualification has been retained in the FDI Act, which also defines ''State bank'' in such a manner as to include only those institutions ''engaged in the business of receiving deposits, other than trust funds.'' 12 U.S.C. 1813(a)(2).

The qualification relating to ''trust funds'' can be traced to the Banking Act of 1950 (Pub. L. 81–797). In the applicable House Report the purpose of this qualification is explained as follows: ''The term 'State bank' is redefined to exclude banking institutions (certain trust companies) which do not receive deposits other than trust funds. There appears to be no necessity for such institutions being insured, as they place most of their uninvested funds on deposit in insured banks, retaining only nominal amounts, if any, in their own institutions.'' H.R. Rep. No. 2564, reprinted in 1950 U.S.C.C.A.N. 3765, 3768. The term ''nominal amounts'' refers to uninvested trust funds held by the institution; it does not apply to non-trust deposits.

The House Report indicates that a trust company cannot obtain insurance if it does not receive any non-trust deposits. It provides no guidance, however, as to whether a trust company can be insured if it accepts a small amount of non-trust deposits from a particular group (such as affiliates or trust customers) as opposed to a large amount or continuing stream of non-trust deposits from the general public. In essence, the House Report simply paraphrases the statutory language that an insured depository institution must be ''engaged in the business of receiving deposits other than trust funds.''

A more useful reflection of Congressional intent may be found in legislation enacted after the FDIC and the OCC had begun to interpret the statutory language. As discussed below, this subsequent legislation indicates that Congress neither modified nor indicated any disagreement with the broader construction given to the statutory phrase by the FDIC and the OCC.

Practices of the FDIC and the OCC

The FDIC has acted on a case-by-case basis in determining whether depository institutions are ''engaged in the business of receiving deposits other than trust funds.'' The FDIC has never adopted a formal interpretation or set of guidelines. Under section 5 the FDIC for many years has approved applications for deposit insurance from non-traditional depository institutions with few non-trust deposits. This practice began at least as early as 1969 with Bessemer Trust Company (Bessemer) located in Newark, New Jersey. Originally, Bessemer was an uninsured trust company that accepted no deposits except deposits related to its trust business. In 1969 Bessemer decided to offer non-trust checking accounts to its trust customers. Bessemer did not offer non-trust deposit accounts to the general public. Notwithstanding this fact, the FDIC approved Bessemer's application for deposit insurance.

In the 1970s the FDIC approved more applications from banks that intended to serve limited groups of customers. Again, the FDIC did not object to the fact that the banks did not intend to accept non-trust deposits from the general public. Some of these banks were ''Regulation Y'' trust companies under the Bank Holding Company Act (BHCA). See 12 U.S.C. 1843(c); 12 C.F.R. part 225. The FDIC took the position that the statutory language (''engaged in the business of receiving [non-trust] deposits'') should be construed very broadly so as to promote public confidence in the greatest number of institutions.

In the 1980s the FDIC staff reviewed the meaning of being ''engaged in the business of receiving [non-trust] deposits.'' The staff noted questions about the insurance of ''Regulation Y'' trust companies; the staff also noted questions as to whether the acceptance of funds from a single non-trust depositor would represent a sufficient level of non-trust deposit-taking. Notwithstanding these continuing questions, the FDIC did not adopt a strict interpretation (or any formal interpretation) of the statutory phrase. Instead, the FDIC during this period continued to approve applications from depository institutions with very limited deposit-taking activities. For example, in 1984 the FDIC's Board of Directors approved an application from Bear Stearns Trust Company located in Trenton, New Jersey, even though the institution planned to accept

non-trust deposits only from employees and affiliates. The institution did not intend to accept non-trust deposits from the general public.

Because the FDIC has never adopted a formal interpretation or guidelines, the FDIC's interpretation has been subject to questions from time to time. In 1991 the FDIC contemplated whether the insured status of certain national trust companies should be terminated under section 8 of the FDI Act because the trust companies held few or no non-trust deposits. The issue was not resolved because the institutions terminated their insurance voluntarily.

The practices of the OCC also are relevant. Prior to 1991 the OCC was responsible for determining whether national banks satisfied the threshold statutory requirements for obtaining deposit insurance. See 12 U.S.C. 1814(b) (1980). In exercising this authority the OCC chartered a number of national banks with limited deposit-taking functions on the basis that such banks were ''engaged in the business of receiving deposits other than trust funds.''

A significant statutory change occurred in 1991. At that time Congress provided that all applicants for deposit insurance must apply directly to the FDIC. See 12 U.S.C. 1815(a). Congress thus authorized the FDIC to make the requisite determination as to whether any applicant for deposit insurance would be ''engaged in the business of receiving deposits other than trust funds.'' In making this change, Congress made no objection to the practices of the FDIC and the OCC in extending insurance to institutions with limited deposit-taking activities. Thus, Congress accepted this practice. See *Lorillard* v. *Pons,* 434 U.S. 575 (1978). In addition, Congress accepted this practice through the enactment of certain provisions in the Bank Holding Company Act (discussed in the next section).

Since 1991 the FDIC has approved applications for deposit insurance from more than 70 non-traditional depository institutions holding one or a very limited number of non-trust deposits. Some of these institutions have been credit card banks; others have been trust companies. Over the last two years the FDIC has received approximately 20 applications from limited purpose federal savings associations operating as trust companies and chartered by the Office of Thrift Supervision (OTS). Approximately 15 of these applications already have been approved. In granting insurance to some of these institutions, the FDIC has required the holding of at least one non-trust deposit (generally owned by a parent or affiliate) in the amount of $500,000.

The practices of the FDIC and the OCC support a broad, flexible interpretation of being ''engaged in the business of receiving deposits other than trust funds.'' The agencies have approved applications from institutions that did not intend to accept deposits from the general public. Neither agency has ever specifically adopted the position that an insured depository institution must accept non-trust deposits from the general public.

The Bank Holding Company Act

The FDI Act also must be reconciled with the Bank Holding Company Act of 1956 (BHCA) as amended by the Competitive Equality Banking Act of 1987, Pub. L. No. 100–86 (CEBA). In the BHCA the definition of ''bank'' includes banks insured by the FDIC. See 12 U.S.C. 1841(c)(1). A list of exceptions includes institutions functioning solely in a trust or fiduciary capacity if several conditions are satisfied. The conditions related to deposit-taking are: (1) All or substantially all of the deposits of the institution must be trust funds; (2) insured deposits of the institution must not be offered through an affiliate; and (3) the institution must not accept demand deposits or deposits that the depositor may withdraw by check or similar means. See 12 U.S.C. 1841(c)(2)(D)(i)–(iii). The significant conditions are (1) and (2). The first condition provides that all or substantially all of the deposits of the institution must be trust funds; the second condition involves ''insured deposits.'' Thus, the statute contemplates that a trust company—functioning solely as a trust company and holding no deposits (or substantially no deposits) except trust deposits—could hold ''insured deposits.'' In other words, the BHCA contemplates that an institution could be insured by the FDIC even though the institution does not accept non-trust deposits from the general public.

The BHCA is difficult to reconcile fully with the FDI Act, which mandates that all FDIC-insured institutions must be ''engaged in the business of receiving [non-trust] deposits.'' The appropriate way to reconcile the BHCA with the FDI Act is for the FDIC to construe the threshold requirement of being ''engaged in the business of receiving deposits other than trust funds'' in a flexible and broad way. The FDIC has done so by allowing depository institutions to satisfy the statutory requirement by receiving very limited non-trust deposits.

Court Decisions

The courts have offered few interpretations of being engaged in the specific ''business of receiving deposits other than trust funds.'' The leading case is *Meriden Trust and Safe Deposit Company* v. *FDIC,* 62 F.3d 449 (2d Cir. 1995). In that case, a bank holding company acquired two State-chartered banks insured by the FDIC. One of these banks was Meriden Trust; the other was Central Bank. After making the acquisitions, the holding company transferred most of the assets and liabilities of Meriden Trust to Central Bank. Nothing was retained by Meriden Trust except the assets and liabilities relating to its trust business. Also, Meriden Trust held two non-trust deposits in the aggregate amount of $200,000. One of the non-trust deposits was owned by the holding company; the other was owned by Central Bank. In order to maintain the ability to function as a full-service bank, Meriden Trust did not seek to terminate its insurance from the FDIC.

Later, Central Bank failed. Meriden Trust then informed the FDIC that it no longer considered itself an ''insured depository institution'' because it had stopped accepting non-trust deposits. By taking this position, Meriden Trust hoped to avoid liability under section 5(e) of the FDI Act. Section 5(e) provides that an ''insured depository institution'' shall be liable for any loss incurred by the FDIC in connection with the failure of a commonly controlled insured depository institution. *See* 12 U.S.C. 1815(e).

The FDIC did not agree with Meriden Trust. In court, the issue was whether Meriden Trust was an ''insured depository institution.'' Under the FDI Act, the term ''insured depository institution'' includes any bank insured by the FDIC including a ''State bank.'' See 12 U.S.C. 1813(c)(2). In turn, ''State bank'' includes any State-chartered bank or trust company ''engaged in the business of receiving deposits, other than trust funds.'' 12 U.S.C. 1813(a)(2)(A). Again, Meriden Trust argued that it was not ''engaged in the business of receiving deposits, other than trust funds'' because it had stopped accepting non-trust deposits from the general public.

The position taken by Meriden Trust was rejected by the federal district court as well as the United States Court of Appeals for the Second Circuit. The Court of Appeals relied upon the fact that Meriden Trust held two non-trust deposits (in the aggregate amount of only $200,000). Also, the court relied upon the fact that Meriden Trust never obtained a termination of its status as an ''insured depository institution'' in the manner prescribed by the FDI Act. Under the Act, termination of this status requires the involvement or consent of the FDIC. See 12 U.S.C. 1818; 12 U.S.C. 1828(i)(3).

Another noteworthy case is *United States* v. *Jenkins,* 943 F.2d 167 (2d Cir.), cert. denied, 502 U.S. 1014 (1991). In that case the court found that the defendant had violated the Glass-Steagall Act by engaging ''in the business of receiving deposits'' without proper State or federal authorization. See 12 U.S.C. 378(a). The case is noteworthy because the defendant was convicted for receiving a single deposit in the amount of only $150,000.

A recent case is *Heaton* v. *Monogram Credit Card Bank of Georgia,* Civil Action No. 98–1823 (E.D. La.). In that case credit card holders in Louisiana have brought suit against an insured State-chartered credit card bank in Georgia. The cardholders have charged the bank with violating Louisiana restrictions on fees and interest rates. In its defense the Georgia bank has cited section 27 of the FDI Act. Under that section, a ''State bank'' may avoid certain State restrictions on fees and interest rates when operating outside its State of incorporation. See 12 U.S.C. 1831d. The key issue in the litigation is whether the Georgia bank—holding a fixed and limited number of deposits—qualifies as a ''State bank'' entitled to protection under section 27.

The Georgia bank in Heaton holds only two deposits and both are from affiliates. As a non-party in the litigation, the FDIC informed the court that it deemed the bank to be a ''State bank'' under the FDI Act despite the bank's limited number of deposits.

The court disagreed. On November 22, 1999, the federal district court ruled on a preliminary jurisdictional motion that the Georgia bank was not a ''State bank'' because it was not ''engaged in the business of

receiving deposits, other than trust funds.'' The Georgia bank appealed the court's ruling to the United States Court of Appeals for the Fifth Circuit. The case is pending before the Court of Appeals.

Meriden and Jenkins are more persuasive than the district court's decision in Heaton. As discussed above, the Court of Appeals in Meriden found that a trust company was ''engaged in the business of receiving [non-trust] deposits'' even though it held only two non-trust deposits in the aggregate amount of only $200,000. In part the court relied upon the fact that the insured status of the trust company never was terminated in the manner prescribed by the FDI Act. This reliance was appropriate in light of the FDIC's ''conclusive'' authority under section 8 to determine whether an insured depository institution is ''not engaged in the business of receiving deposits, other than trust funds.'' 12 U.S.C. 1818(p).

In contrast, the Heaton court disregarded the fact that the FDIC has never terminated the insured status of the Georgia credit card bank. The implication of the Heaton decision is that a bank may remain insured by the FDIC under the FDI Act even though it ceases to exist as a ''State bank'' under the FDI Act. This interpretation is irrational. It would lead to the existence of State depository institutions that are insured by the FDIC but unregulated by every section of the FDI Act that regulates ''State banks.'' See, e.g., 12 U.S.C. 1831a (regulating the activities of insured ''State banks'').

Meriden and Jenkins support a broad interpretation of being ''engaged in the business of receiving deposits other than trust funds.'' These cases involved and are directly relevant to banks. There are cases outside the banking field that suggest that being ''engaged in a business'' implies regularity of participation or involvement in multiple transactions. See, e.g., *McCoach* v. *Minehill & Schuylkill Haven Railroad Co.,* 228 U.S. 295, 302 (1913); *United States* v. *Scavo,* 593 F.2d 837, 843 (8th Cir. 1979); *United States* v. *Tarr,* 589 F.2d 55, 59 (1st Cir. 1978). It is inappropriate to apply such cases (rather than Meriden and Jenkins) in the banking business because, as previously explained, the opening of a single deposit account initiates a continuing business relationship with periodic withdrawals, deposits, rollovers and the accrual of interest.

State Banking Statutes

Some State banking statutes impose significant restrictions on the ability of some depository institutions to accept non-trust deposits. For example, a Florida statute provides that a ''credit card bank'' (1) may not accept deposits at multiple locations; (2) may not accept demand deposits; and (3) may not accept savings or time deposits of less than $100,000. At the same time, the statute provides that the bank must obtain insurance from the FDIC. See Fla. Stat. 658.995(3). Thus, the statute contemplates that a bank may be ''engaged in the business of receiving [non-trust] deposits'' (a necessary condition for obtaining insurance from the FDIC) even though the bank may not accept deposits on an unrestricted basis from the general public. Indeed, the statute contemplates that a bank may be insured by the FDIC even though the bank's business consists solely of making credit card loans and conducting such activities as may be incidental to the making of credit card loans. See Fla. Stat. 658.995(3)(f).

Similarly, a Virginia statute provides that a general business corporation may acquire the voting shares of a ''credit card bank'' only if certain conditions are satisfied. See Va. Code 6.1–392.1.A. These conditions comprise the definition of a ''credit card bank.'' See Va. Code 6.1–391. These conditions include the following: (1) The bank may not accept demand deposits; and (2) the bank may not accept savings or time deposits of less than $100,000. Indeed, the statute provides that a ''credit card bank'' may accept savings or time deposits (in amounts in excess of $100,000) only from affiliates of the bank having their principal place of business outside the State. See Va. Code 6.1–392.1.A.3–4. In other words, the Virginia statute prohibits the acceptance of any deposits from the general public. At the same time, the statute requires the deposits of the bank to be federally insured. See Va. Code 6.1–392.1.A.4.

A third example is the Georgia Credit Card Bank Act. Prior to a recent amendment, this statute provided that a credit card bank could take deposits only from affiliated parties. In other words, the Georgia statute was similar to the current Virginia statute in prohibiting a credit card bank from accepting deposits from the general public. See Ga. Code Ann. 7–5–3(7) (1997). At the same time, Georgia law required such banks to be ''authorized to engage in the business of receiving deposits.'' Ga. Code Ann. 7–1–4(7) (1997). Thus, Georgia law (consistent with the current Virginia law) was based on the premise that the receipt of deposits from the general public is not a necessary element of being ''engaged in the business of receiving deposits.'' The receipt of deposits from affiliated parties was deemed sufficient. (Under the current Georgia law, a credit card bank may accept savings or time deposits in amounts of $100,000 or more from anyone. See Ga. Code 7–5–3(7).)

These State laws contemplate a broad and flexible interpretation of being ''engaged in the business of receiving deposits other than trust funds.'' Of course, the FDIC in applying the FDI Act cannot be controlled by State law but the FDIC should be cognizant of the evolving nature of banking as reflected by State laws.

Confirmation of the FDIC's Interpretation

For more than 30 years the FDIC has approved applications for deposit insurance from non-traditional depository institutions. During this period the FDIC has not required the acceptance of deposits from the general public in determining that applicants are ''engaged in the business of receiving deposits other than trust funds.'' On the contrary, the FDIC has approved applications from many institutions (such as trust companies and credit card banks) that did not intend to solicit deposits from the general public. Indeed, some of these institutions planned to accept no more than one non-trust deposit from a parent or affiliate.

The FDIC's consistent practice represents an interpretation of being ''engaged in the business of receiving deposits other than trust funds.'' This long-standing broad interpretation is consistent with the protective purposes of deposit insurance generally and is well within the FDIC's discretion in light of the ambiguity of the statutory phrase. The FDIC's long-standing interpretation also is supported by (1) the practices of the OCC; (2) the acceptance by Congress of the practices of the FDIC and the OCC; (3) the Bank Holding Company Act; (4) the relevant case law; and (5) State banking statutes. On the basis of the foregoing, I conclude that the statutory requirement of being ''engaged in the business of receiving deposits other than trust funds'' is satisfied by the continuous maintenance of one or more non-trust deposits in the aggregate amount of $500,000 (the amount specified in a number of recent applications).

Some discussion is warranted regarding the most limited forms of being ''engaged in the business of receiving deposits other than trust funds.'' It could be argued that a difference exists between allowing depository institutions to decline non-trust deposits from the general public and allowing depository institutions to decline all non-trust deposits from all potential depositors with the exception of a single deposit from a parent or affiliate. Perhaps an argument also could be made that the minimum number of non-trust depositors or the minimum number of non-trust deposit accounts should be greater than one. The problem with this argument is that a single deposit account can be divided into portions. Moreover, if the FDIC required the existence of a particular number of depositors or the periodic acceptance of a particular number of non-trust deposits, institutions holding one deposit account would simply arrange for the prescribed number of depositors to hold the funds in the prescribed number of accounts. At periodic intervals, funds would be withdrawn and redeposited. The FDIC should not and need not interpret the minimum threshold requirement of the statute so as to require such stratagems.

In summary, the Legal Division believes and the General Counsel is of the opinion that the FDIC may determine that a depository institution is ''engaged in the business of receiving deposits other than trust funds'' as required by section 5 of the FDI Act if the institution holds one or more non-trust deposits in the aggregate amount of $500,000. This interpretation is not intended to suggest that a depository institution will necessarily not be ''engaged in the business of receiving [non-trust] deposits'' if it holds such deposits in the aggregate amount of less than $500,000. Rather, the Legal Division is merely adopting the opinion that the amount of $500,000 is sufficient for purposes of section 5 as well as section 8 (terminations) and section 3 (definition of ''State bank''). If an applicant for deposit insurance proposes to hold non-trust deposits in a lesser amount (based on projected deposit levels), the FDIC would need to determine in that particular case whether the applicant would be ''engaged in the business of receiving [non-trust] deposits.'' Similarly, under section 8 or

section 3, the FDIC will determine on a case-by-case basis whether the holding of non-trust deposits in an amount less than $500,000 constitutes being ''engaged in the business of receiving [non-trust] deposits.''

Conclusion

Section 5 of the FDI Act provides that an applicant for deposit insurance must be ''engaged in the business of receiving deposits other than trust funds.'' In the opinion of the General Counsel, on the basis of the foregoing, the holding by a depository institution of one or more non-trust deposits in the aggregate amount of $500,000 is sufficient to satisfy this threshold requirement for obtaining deposit insurance.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–331–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Boeing Model 747 series airplanes, that currently requires repetitive inspections to detect cracking of the forward and aft inner chords and the splice fitting of the forward inner chord of the station 2598 bulkhead, and repair, if necessary. This proposal would add repetitive inspections of an expanded inspection area, which would end the inspections specified in the existing AD. This proposal also would limit the applicability of the existing AD. This proposal is prompted by reports indicating fatigue cracking was found on airplanes that had accumulated fewer total flight cycles than the threshold specified in the existing AD. The actions specified by the proposed AD are intended to detect and correct fatigue cracking of the forward and aft inner chords, the frame support, and the splice fitting of the forward inner chord of the upper corner of the station 2598 bulkhead, which could result in reduced structural capability of the bulkhead and the inability of the structure to carry horizontal stabilizer flight loads.

DATES: Comments must be received by June 4, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–331–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–331–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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

FOR FURTHER INFORMATION CONTACT: Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action 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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–331–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–331–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On April 19, 2000, the FAA issued AD 2000–08–21, amendment 39–11707 (65 FR 25281, May 1, 2000), applicable to all Boeing Model 747 series airplanes, to require repetitive inspections to detect cracking of the forward and aft inner chords and the splice fitting of the forward inner chord of the station 2598 bulkhead, and repair, if necessary. That action was prompted by reports of fatigue cracking found in those areas. The requirements of that AD are intended to detect and correct such cracking, which could result in reduced structural capability of the bulkhead and the inability of the structure to carry horizontal stabilizer flight loads.

Actions Since Issuance of Previous Rule

Since the issuance of AD 2000–08–21, the FAA has received reports indicating the detection of fatigue cracking on certain Boeing Model 747 series airplanes. Investigation revealed that on an airplane having 7,325 total flight cycles, a 2.8-inch-long crack was found on the inner chord of the station 2598 bulkhead; on another airplane having 5,845 total flight cycles, a 2.1-inch-long crack was found in the same area. Cracks also have been found on the frame support of the station 2598 bulkhead, which was not included in the inspection area specified in the existing AD.

Issuance of New Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2427, Revision 2, dated October 5,

2000, which describes procedures for initial and repetitive surface high frequency eddy current (HFEC) inspections of the forward and aft inner chords, the frame support, and the splice fitting of the forward inner chord of the upper corner of the station 2598 bulkhead to detect cracking. The repetitive HFEC inspections of an expanded area eliminate the need for the inspections required by the existing AD. The compliance time for doing the new initial inspection is reduced from the compliance time for doing the initial inspection that is specified in Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999 (recommended as the appropriate source of service information for accomplishment of the actions specified in the existing AD); and the new repetitive inspections specified in Revision 2 of the service bulletin are to be accomplished more frequently than the repetitive inspections specified in Revision 1 of the service bulletin.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 2000–08–21 to continue to require repetitive inspections to detect cracking of the forward and aft inner chords and the splice fitting of the forward inner chord of the station 2598 bulkhead, and repair, if necessary. This proposal would add repetitive surface HFEC inspections of the forward and aft inner chords, the frame support, and the splice fitting, to find cracks, and repair, if necessary. Doing the new HFEC inspections would end the inspections specified in the existing AD. The actions would be required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note the following:

The service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, but this proposed AD would require the repair of those conditions to be accomplished per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

The service bulletin specifies the effectivity as line numbers 1 through 1241 inclusive, due to incorporation of a production change (cold working certain fastener holes of the station 2598 bulkhead) on airplanes manufactured after line number 1241. Since issuance of the service bulletin, the manufacturer has determined that the chords with the cold-worked fastener holes also are susceptible to fatigue cracking. Due to this determination, the applicability in this proposed AD includes line numbers 1 through 1307 inclusive.

For airplanes having line numbers 1242 through 1307 inclusive, one option for the compliance time for doing the initial inspection would be before the accumulation of 16,000 total flight cycles. The service bulletin specifies before the accumulation of 6,000 total flight cycles.

Interim Action

This is interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider further rulemaking.

Cost Impact

There are approximately 1,115 airplanes of the affected design in the worldwide fleet. The FAA estimates that 258 airplanes of U.S. registry would be affected by this proposed AD.

The HFEC inspection that currently is required by AD 2000–08–21 takes approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection is estimated to be $120 per airplane.

The detailed visual inspection that currently is required by AD 2000–08–21 takes approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection is estimated to be $120 per airplane, per inspection cycle.

The HFEC inspections that are proposed in this AD action would take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspection is estimated to be $120 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11707 (65 FR 25281, May 1, 2000), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 2000–NM–331–AD. Supersedes AD 2000–08–21, Amendment 39–11707.

Applicability: Model 747 series airplanes, line numbers 1 through 1307 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 (g)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking of the forward and aft inner chords, the frame support, and the splice fitting of the forward inner chord of the upper corner of the station 2598 bulkhead, which could result in reduced structural capability of the bulkhead and the inability of the structure to carry horizontal stabilizer flight loads, accomplish the following:

Restatement of Requirements of AD 2000–08–21

Initial Inspection

(a) Prior to the accumulation of 13,000 total flight cycles, or within 1,000 flight cycles after June 5, 2000 (the effective date of AD 2000–08–21, amendment 39–11707), whichever occurs later: Accomplish the requirements specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Perform a high frequency eddy current inspection (HFEC) to detect cracking of the forward and aft inner chords of the station 2598 bulkhead, in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998; or in accordance with Figure 2, Steps 1 and 2, of Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999.

(2) Perform an HFEC inspection to detect cracking of the splice fitting along the upper and lower attachment to the forward inner chord of the station 2598 bulkhead, as shown in Figure 2, Detail A, of Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998; or in accordance with Figure 2, Step 3, of Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999.

Note 2: Operators should note that, although the splice fitting is NOT highlighted in Figure 2, Detail A, of Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998, as it is in Figure 2 of Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999, the inspection required by paragraph (a)(2) of this AD must still be accomplished.

Repetitive Inspections

(b) Within 3,000 flight cycles after accomplishment of the inspections required by paragraph (a) of this AD: Accomplish the inspections specified in paragraphs (b)(1) and (b)(2) of this AD. Repeat the inspections thereafter at intervals not to exceed 3,000 flight cycles.

(1) Perform a detailed visual inspection to detect cracking of the forward and aft inner chords of the station 2598 bulkhead, in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998; or in accordance with Figure 3, Steps 1 and 2, of Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999.

Note 3: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(2) Perform a detailed visual inspection to detect cracking of the splice fitting along the upper and lower attachment to the forward inner chord of the station 2598 bulkhead, as shown in Figure 3, Detail A, of Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998; or in accordance with Figure 3, Step 3, of Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999.

Note 4: Operators should note that, although the splice fitting is NOT highlighted in Figure 3, Detail A, of Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998, as it is in Figure 3 of Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999, the inspections required by paragraph (b)(2) of this AD must still be accomplished.

Repair

(c) If any cracking is detected during the inspections required by paragraph (a)(1) or (b)(1) of this AD, prior to further flight, repair in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998, Revision 1, dated October 28, 1999, or Revision 2, dated October 5, 2000; except as provided by paragraph (d) of this AD.

(d) If any cracking is detected during the inspections required by paragraph (a)(2) or (b)(2) of this AD, or the alert service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO); or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

New Requirements of This AD

Repetitive Inspections

(e) Do a surface HFEC inspection of the forward and aft inner chords, the frame support, and the splice fitting of the forward inner chord of the upper corner of the station 2598 bulkhead to find cracking, in accordance with Boeing Alert Service Bulletin 747–53A2427, Revision 2, dated October 5, 2000; at the latest of the times specified in paragraphs (e)(1) and (e)(2) of this AD, as applicable. Repeat the inspection after that at intervals not to exceed 1,500 flight cycles. Doing these inspections ends the inspections required by paragraphs (a) and (b) of this AD.

(1) For airplanes having line numbers 1 through 1241 inclusive:

(i) Before the accumulation of 6,000 total flight cycles.

(ii) Within 500 flight cycles after the effective date of this AD.

(iii) If the inspections specified in paragraph (a) or (b) of this AD were done before the effective date of this AD: Within 1,500 flight cycles after accomplishment of the last inspection required by paragraph (a) or (b) of this AD, as applicable.

(2) For airplanes having line numbers 1242 through 1307 inclusive:

(i) Before the accumulation of 16,000 total flight cycles.

(ii) Within 500 flight cycles after the effective date of this AD.

(iii) If the inspections specified in paragraph (a) or (b) of this AD were done before the effective date of this AD: Within 1,500 flight cycles after accomplishment of the last inspection required by paragraph (a) or (b) of this AD, as applicable.

Repair

(f) If any cracking is found during the inspections required by paragraph (e) of this AD, before further flight, repair in accordance with Boeing Alert Service Bulletin 747–53A2427, Revision 2, dated October 5, 2000; except where the alert service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, before further flight, repair in accordance with a method approved by the Manager, Seattle ACO; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

Alternative Methods of Compliance

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

(2) Alternative methods of compliance, approved previously per AD 2000–08–21, amendment 39–11707, are approved as alternative methods of compliance with paragraphs (c) and (d) of this AD.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(h) 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 April 11, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–9669 Filed 4–18–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–346–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100 and –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 certain Boeing Model 747–100 and –200 series airplanes. This proposal would require repetitive inspections for cracking of the station 800 frame assembly, and repair, if necessary. This action is necessary to find and fix fatigue cracks that could extend and fully sever the frame, which could result in development of skin cracks that could lead to rapid depressurization of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 4, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–346–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–346–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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

FOR FURTHER INFORMATION CONTACT: Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action 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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–346–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–346–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports that operators have found fatigue cracks in the strap and inner chord angle at the station 800 frame, between stringers 14 and 18, on certain Boeing Model 747–100 and –200 series airplanes. The cracks can initiate at certain fastener holes. Fatigue cracks in this area, if not found and fixed, can extend and fully sever the frame. If the frame is severed, skin cracks could occur, which could result in rapid depressurization of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000, which describes procedures for repetitive inspections for cracking of the station 800 frame assembly between stringers 14 and 18. The procedures involve removal of fasteners; detailed visual, surface high frequency eddy current (HFEC), and open hole HFEC inspections, as applicable, for cracking of the inner chord strap, angles, and exposed web at station 800; and installation of new or serviceable fasteners. If any cracking is detected, the service bulletin says to contact Boeing for repair instructions.

Explanation of Requirements of Proposed Rule

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

Differences Between Service Bulletin and Proposed AD

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for repair instructions, this proposed AD would require repair according to a method approved by the FAA, or according to data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative

who has been authorized by the FAA to make such findings.

Cost Impact

There are approximately 258 airplanes of the affected design in the worldwide fleet. The FAA estimates that 139 airplanes of U.S. registry would be affected by this proposed AD, that it would take up to 14 work hours per airplane to accomplish the proposed inspections, 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 as much as $116,760, or $840 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 proposed 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:

Boeing: Docket 2000–NM–346–AD.

Applicability: Model 747–100 and –200 series airplanes, as listed in Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000, 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 find and fix fatigue cracks of the station 800 frame assembly that could extend and fully sever the frame, which could result in development of skin cracks that could lead to rapid depressurization of the airplane, accomplish the following:

Repetitive Inspections

(a) Do detailed visual, surface high frequency eddy current (HFEC), and open hole HFEC inspections, as applicable, for cracking of the station 800 frame assembly (including the inner chord strap, angles, and exposed web) between stringers 14 and 18, according to Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000. Except as provided by paragraph (b) of this AD, do the inspection at the applicable time specified in Table 1 below, and repeat the inspections thereafter at least every 3,000 flight cycles: Table 1 is as follows:

TABLE 1.—COMPLIANCE TIMES

Total flight cycles as of the effective date of this AD—	Do the inspection in paragraph (a) at this time—
Fewer than 19,000.	Before the accumulation of 19,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever comes later.
19,000 or more but 24,250 or fewer.	Within 1,500 flight cycles or 12 months after the effective date of this AD, whichever comes first.
24,251 or more.	Within 750 flight cycles or 12 months after the effective date of this AD, whichever comes first.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Adjustments to Compliance Time: Cabin Differential Pressure

(b) For the purposes of calculating the compliance threshold and repetitive interval for the actions required by paragraph (a) of this AD, the number of flight cycles in which cabin differential pressure is at 2.0 pounds per square inch (psi) or less need not be counted when determining the number of flight cycles that have occurred on the airplane, provided that flight cycles with momentary spikes in cabin differential pressure above 2.0 psi are included as full pressure cycles. For this provision to apply, all cabin pressure records must be maintained for each airplane: NO fleet-averaging of cabin pressure is allowed.

Repair

(c) If any cracking is detected during any inspection required by paragraph (a) of this AD, before further flight, repair the cracking according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or according to data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal

Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

Special Flight Permits

(e) 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 April 12, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–9668 Filed 4–18–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–337–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes, that currently requires a revision of the Airplane Flight Manual to alert the flightcrew that both flight management computers (FMC) must be installed and operational. This action would require an inspection to verify if a certain modification is on the front and rear identification plates of the FMC's; and applicable follow-on and corrective actions. This proposal is prompted by the FAA's determination that further rulemaking action is necessary to ensure that all affected airplanes are inspected for suspected defective multiplexers. The actions specified by the proposed AD are intended to prevent loss of airspeed and altitude indications on both primary flight displays in the cockpit, and/or loss or degradation of the autopilot functionality, and consequent failure of the data busses.

DATES: Comments must be received by June 4, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–337–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–337–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action 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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–337–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–337–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On July 10, 1998, the FAA issued AD 98–15–14, amendment 39–10665 (63 FR 38464, July 17, 1998), applicable to certain McDonnell Douglas Model MD–11 series airplanes, to require a revision of the Airplane Flight Manual (AFM) to alert the flightcrew that both flight management computers (FMC) must be installed and operational. That action was prompted by a report indicating that, due to incorrect multiplexers that were installed in the FMC's during production, certain data busses failed simultaneously during a ground test. The requirements of that AD are intended to prevent loss of airspeed and altitude indications on both primary flight displays in the cockpit, and/or loss or degradation of the autopilot functionality, and consequent failure of the data busses.

Actions Since Issuance of Previous Rule

In the preamble of AD 98–15–14, the FAA indicated that the actions required by that AD were considered ''interim action'' and that further rulemaking action was being considered. The FAA now has determined that further rulemaking action is indeed necessary, and this proposed AD follows from that determination.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin MD11–34–085, Revision 01, dated September 20, 1999, which describes procedures for an inspection to verify if modification ''AS'' is on the front and rear identification plates of FMC–1 and FMC–2, and applicable follow-on and corrective actions. The follow-on actions include test(s) of the FMC in the flight compartment to ensure that a certain modification is operational, and applicable corrective actions, if necessary. The corrective actions include installation of new software; reidentification of FMC–1 and FMC–2 as 4059050–912; and installation of modification ''AS.'' Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 98–15–14 to continue to require a revision of the AFM to alert the flightcrew that both FMC's must be installed and operational. The proposed AD also would require accomplishment of the actions specified in the service bulletin described previously, which would allow the AFM revision to be removed from the AFM.

Cost Impact

There are approximately 174 Model MD–11 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 59 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 98–15–14, and retained in this proposed AD, take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $3,540, or $60 per airplane.

The new actions that are proposed in this AD action would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $3,540, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10665 (63 FR 38464, July 17, 1998), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 2000–NM–337–AD. Supersedes AD 98–15–14, Amendment 39–10665.

Applicability: Model MD–11 series airplanes, manufacturer's fuselage numbers 0447 through 0552 inclusive, and 0554 through 0621 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 (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 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 airspeed and altitude indications on both primary flight displays in the cockpit, and/or loss or degradation of the autopilot functionality, and consequent failure of the data busses, accomplish the following:

Restatement of Requirements of AD 98–15–14

Airplane Flight Manual (AFM) Revision

(a) Within 5 days after May 20, 1998 (the effective date of AD 98–10–01, amendment 39–10512), revise Section 1, page 5–1, of the Limitations Section of the FAA-approved AFM to include the following statement. This may be accomplished by inserting a copy of this AD into the AFM.

''Prior to dispatch of the airplane, both Flight Management Computer 1 (FMC–1) and FMC–2 must be installed and operational.''

New Actions Required by This AD

Inspection

(b) Within 90 days after the effective date of this AD, do an inspection to verify that modification ''AS'' is on the front and rear identification plates of flight management computer 1 (FMC–1) and FMC–2, per McDonnell Douglas Service Bulletin MD11–34–085, Revision 01, dated September 20, 1999. After the inspection has been done, the AFM revision required by paragraph (a) of this AD may be removed from the AFM.

Condition 1 (Modification ''AS'' Is Installed)

(c) If modification ''AS'' is found installed during the inspection required by paragraph (a) of this AD, before further flight, do the actions specified in paragraphs (c)(1) and (c)(2) of this AD, per McDonnell Douglas Service Bulletin MD11–34–085, Revision 01, dated September 20, 1999.

(1) Do a test of the FMC's in the flight compartment to ensure that modification ''AS'' is operational, and do applicable corrective actions, if necessary. Both FMC's must have modification ''AS'' installed and

pass the test before loading new software per paragraph (c)(2) of this AD.

(2) Install new software and reidentify FMC–1 and FMC–2 as 4059050–912.

Note 2: McDonnell Douglas Service Bulletin MD11–34–085, Revision 01, dated September 20, 1999, references Honeywell Service Bulletin 4059050–34–6020, Revision 1, dated April 30, 1999, as an additional source of service information for the installation and reidentification requirements of paragraphs (c)(2) and (d)(2) of this AD.

Condition 2 (Modification ''AS'' Is Not Installed)

(d) If modification ''AS'' is NOT found installed during the inspection required by paragraph (a) of this AD, before further flight, do the actions specified in paragraphs (d)(1), (d)(2), and (d)(3) of this AD per McDonnell Douglas Service Bulletin MD11–34–085, Revision 01, dated September 20, 1999.

(1) Remove FMC–1 and FMC–2.

(2) Install modification ''AS'' and new software, and reidentify FMC–1 and FMC–2 as 4059050–912.

(3) Install modified and reidentified FMC–1 and FMC–2.

Alternative Methods of Compliance

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

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

Special Flight Permits

(f) 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 April 12, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–9667 Filed 4–18–01; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 41 and 140

RIN 3038–AB81

Exemption for Certain Brokers or Dealers from Provisions of the Commodity Exchange Act and CFTC Regulations

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules and request for comment.

SUMMARY: In accordance with certain provisions of the Commodity Futures Modernization Act of 2000 (''CFMA''), the Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is proposing to adopt a new rule establishing procedures for granting orders exempting certain brokers or dealers (''BDs'') registered with the Securities and Exchange Commission (''SEC'') from provisions of the Commodity Exchange Act (the ''Act'') and/or the Commission's regulations where the Commission determines that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors. The Commission is also requesting comments regarding particular provisions of the Act and Commission rules from which BDs should be exempted by rule (in addition to the specific exemptive provisions of the CFMA).

DATES: Comments must be received by May 21, 2001.

ADDRESSES: Comments on the proposed rules may be sent to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to *secretary@cftc.gov.* Reference should be made to ''Exemption for Certain Brokers or Dealers from Provisions of the Commodity Exchange Act and CFTC Regulations.''

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or Christopher W. Cummings, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581, telephone number: (202) 418–5450, facsimile number: (202) 418–5536, electronic mail: *lpatent@cftc.gov,* or *ccummings@cftc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The CFMA, signed into law on December 21, 2000, effected, among other things, removal of the restriction in the Commodity Exchange Act (the ''Act'') [1] on the trading of futures contracts on individual equity securities and narrow-based indices of equity securities.[2] Under the revised law, security futures products [3] may be traded on a designated contract market or on a registered derivatives transaction execution facility (''DTF'').[4]

Section 4d of the Act provides that any person who engages in soliciting or accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any designated contract market or DTF—e.g., for a security futures product—must be registered with the Commission as: (1) a futures commission merchant (''FCM''), if it also accepts any money, securities, or property, or extends credit in lieu thereof, to margin, guarantee, or secure futures contracts; or (2) an introducing broker (''IB'') if it does not accept money or other property to margin, guarantee or secure futures contracts.[5] Section 4f(a)(1) of the Act provides that application for registration as an FCM or IB ''shall be made in such form and manner as prescribed by the Commission.'' [6] Pursuant to this

[1] 7 U.S.C. 1 et seq., as amended by Pub. L. No. 106–554, 114 Stat. 2763 (2000). The text of the CFMA may be accessed on the Internet at http://agriculture.house.gov/txt5660.pdf.

[2] See Section 251(a) of the CFMA. This trading previously had been prohibited by Section 2(a)(1)(B)(v) of the CEA.

[3] The term ''security futures product'' is defined in Section 1a(32) of the CEA to mean ''a security future or any put, call, straddle, option, or privilege on any security future.'' The term ''security future'' is defined in Section 1a(31) of the CEA. Because the CFMA also provides that options on security futures cannot be traded until December 21, 2003 at the earliest, security futures are the only security futures product that may be available for trading during the next 32 months.

[4] The CFMA also specifically prescribes certain dates on which security futures trading can commence. Specifically, principal-to-principal transactions between institutions cannot commence until August 21, 2001, and retail transactions cannot commence until December 21, 2001. Both starting dates are conditioned upon the registration of a futures association (i.e., National Futures Association (''NFA'')) as a limited purpose national securities association under the Securities Exchange Act of 1934 ('''34 Act''). Section 202(a) of the CFMA; Section 6(g)(5) of the '34 Act.

[5] See Sections 1a(20) and (23) of the CEA, which define the terms ''futures commission merchant'' and ''introducing broker,'' respectively.

[6] Prior to the enactment of the CFMA, this provision was found in Section 4f(a) of the CEA. The CFMA (at Section 252(b)) amended Section 4(f) by redesignating paragraph (a) as paragraph (a)(1) and by adding new paragraphs (a)(2) and (a)(3) (Section 252(b)(2) of the CFMA) and (a)(4) (Section 252(c) of the CFMA).

authority, the Commission adopted Rule 3.10, which currently requires that an applicant for registration as an FCM or IB file prescribed registration and financial report forms.[7]

However, as a result of the CFMA, new Section 4f(a)(2) of the Act[8] now provides that, notwithstanding Section 4f(a)(1), any BD[9] that is registered with the SEC shall be registered as an FCM or IB, as applicable, ''effective contemporaneously with the submission of notice,'' if:

(A) the broker or dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products;

(B) the broker or dealer files written notice with the Commission in such form as the Commission, by rule, may prescribe containing such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors;

(C) the registration of the broker or dealer is not suspended pursuant to an order of the Securities and Exchange Commission; and

(D) the broker or dealer is a member of a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.

Accordingly, in a separate **Federal Register** release the Commission is proposing to amend Rule 3.10 to provide for FCM and IB notice registration thereunder.[10]

New Section 4f(a)(3) of the Act[11] provides a similar exemption (without the notice filing requirement) from the requirement under Section 4e of the Act to register as a floor broker (''FB'') or floor trader (''FT''). An FB or FT is exempt from registration as such if:

(A) the floor broker or floor trader is a broker or dealer registered with the Securities and Exchange Commission;

(B) the floor broker or floor trader limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market to security futures products; [12] and

(C) the registration of the floor broker or floor trader is not suspended pursuant to an order of the Securities and Exchange Commission.

Persons registered as FCMs or IBs pursuant to the notice registration procedure of new Section 4f(a)(2) and persons who are exempt from FB or FT registration pursuant to new Section 4f(a)(3) are expressly exempted by new Section 4f(a)(4)[13] from certain enumerated provisions of the Act, as well as those of the Commission's rules that were promulgated under those provisions.[14] In addition to the statutory exemption granted to such persons from the foregoing specified sections of the Act, under the CFMA the Commission is authorized, by rule, regulation or order, to exempt, conditionally or unconditionally, from any provision of the Act or the Commission's rules, any BD subject to the notice filing requirements of new Section 4f(a)(2) or exempt from FB or FT registration under new Section 4f(a)(3), to the extent the exemption is necessary or appropriate in the public interest and is consistent with the protection of investors.[15] By this **Federal Register** release, the Commission is seeking comments regarding specific sections of the Act or provisions of the Commission's rules, beyond those already specified in the CFMA, from which such BDs should be made exempt by rule.

The CFMA also directs the Commission to determine, by rule or regulation, the procedures under which an order under new Section 4f(a)(4)(B) shall be granted.[16] In response to this directive, the Commission is proposing the rule changes set forth herein.[17]

II. Application for an Order Granting Additional Exemptive Relief

New Section 4f(a)(4)(B)(i) of the Act provides that the Commission may issue an order to exempt, conditionally or unconditionally, any BD subject to notice registration under new Section 4f(a)(2) of the Act, or any BD exempt from floor broker or floor trader registration pursuant to new Section 4f(a)(3), from any provision of the Act or any provision of the Commission's regulations to the extent that the exemption is necessary or appropriate in the public interest and is consistent with the protection of investors. New Section 4f(a)(4)(B)(ii) directs the Commission to determine the procedures by which an exemptive order under Section 4f(a)(4)(B) shall be granted, and vests the Commission with sole discretion to decline to entertain any application for such an order.[18] Accordingly, the Commission is proposing, in this rulemaking, procedures for applying for an exemptive order under Section 4f(a)(4)(B) of the Act. Of course, exemption from the sections of the Act listed in Section 4f(a)(4)(A) is automatic.

[7] Commission regulations referred to herein are found at 17 CFR Ch. I (2000).

[8] As set forth in Section 252(b) of the CFMA.

[9] Because the CFMA speaks in terms of a ''broker or dealer,'' the term ''BD'' as used in this release applies equally to a broker, a dealer or a person registered as both a broker and a dealer.

[10] Section 4k(1) of the Act currently requires each person who is an associated person (''AP'') of an FCM or IB to register as such. The CFMA exempts from registration the APs of FCMs and IBs who would be subject to notice registration.

[11] As set forth in Section 252(b) of the CFMA.

[12] Of course, an FT is restricted to executing orders for his or her own account and the Commission does not view this provision of the CFMA as expanding the scope of activities in which an FT may engage.

[13] As set forth in Section 252(c) of the CFMA.

[14] Those provisions include: Section 4c(b)—regulation of commodity options trading by the Commission; Section 4c(d)—dealer options exemption; Section 4c(e)—Commission authority to ban dealer options; Section 4c(g)—requirement for contemporaneous, written record of all orders for execution on the floor or subject to the rules of a designated contract market or DTF; Section 4d—registration requirements for FCMs and IBs and customer funds segregation requirement for FCMs; Section 4e—registration requirement for FBs and FTs; Section 4h—prohibition of misrepresentation that a person is a member of a registered entity, that a person is registered with the Commission, or that a futures contract will be or has been executed on a registered entity; Section 4f(b)—FCM and IB minimum financial requirements; Section 4f(c)—FCM risk assessment requirement; Section 4j—restrictions on dual trading in security futures products; Section 4k(1)—registration requirement for APs of FCMs and IBs; Section 4p—proficiency testing and ethics training requirements for registrants; Section 6d—State causes of action under the Act and Commission right to intervene or appeal; Section 8(d)—Commission's obligation to investigate commodity marketing conditions and to furnish reports to producers, consumers and distributors; Section 8(g)—Commission obligation to disclose information concerning registrants to State governments and political subdivisions thereof; and Section 16—Commission authority to investigate markets and to furnish reports to the public on a regular basis. APs of BDs who limit their futures-related activities to security futures products are also exempt from registration under the Act and the same provisions of the Act and rules thereunder cited in this footnote. See Section 252(d) of the CFMA, purporting to add a new Section 4k(5) of the Act. There was a pre-existing Section 4k(5) in the Act, so the new section should probably be designated as Section 4k(6).

[15] New Section 4f(a)(4)(B)(i) of the Act, as set forth in Section 252(c) of the CFMA. The CFMA does not grant corresponding authority to the SEC with respect to FCMs who notice-register as BDs to engage in security futures transactions.

[16] New Section 4f(a)(4)(B)(ii) of the Act, as set forth in Section 252(c) of the CFMA.

[17] The final subparagraph of new Section 4f(a)(4) provides that: (1) a person that is notice-registered as an FCM pursuant to new Section 4f(a)(2) or an AP thereof, or that is an FB or FT exempt from registration under new Section 4f(a)(3), need not become a member of a registered futures association (i.e., the National Futures Association); and (2) a registered futures association may not prevent its members from transacting business with a person that is exempt under new Sections 4f(a)(2) or (a)(3).

[18] The CFMA places no corresponding obligation upon the SEC.

Accordingly, it is unnecessary for persons to request such orders.

Proposed Rule 41.41 calls for applicants to supply either a written application or an electronic mail submission containing the applicant's name, main business address and phone number, information about the applicant's registration status with the SEC (and assurance that the registration is not subject to a suspension), the specific section(s) of the Act or provision(s) of Commission rules from which exemption is sought, any applicable analogous provisions of the securities laws and regulations, an explanation of the facts and circumstances under which the applicant believes that the requested exemptive relief is necessary or appropriate in the public interest; and an explanation of the extent to which the requested exemptive relief is consistent with the protection of investors. The last two items constitute the basis upon which the CFMA requires the Commission to base the grant of a request for an order. The proposed rule also states that the grant or denial of a request is within the Commission's sole discretion (as specifically provided in the CFMA).

III. Delegation of Authority

The Commission is proposing to delegate to the Director of the Division of Trading and Markets authority to grant or deny applications for exemptive orders under proposed Rule 41.41. With respect to the granting and denying of applications for exemptive orders the delegation is intended to expedite the procedure and to place it with the staff members most directly involved in exemptive matters. The Commission believes that this delegation will maximize regulatory efficiency with respect to these proposed rule changes.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–611 (1994), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments discussed herein would affect persons registered under notice-registration procedures as FCMs or as IBs, and persons who are exempt from FB or FT registration pursuant to new Section 4f(a)(3). The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.[19] The Commission previously determined that registered FCMs are not small entities for the purpose of the RFA.[20] With respect to IBs, the Commission has stated that it would evaluate within the context of a particular rule proposal whether all or some affected IBs would be considered to be small entities and, if so, the economic impact on them of any rule.[21]

The amendments proposed herein do not impose any new burdens upon persons registered as FCMs or IBs pursuant to the notice registration procedure of new Section 4f(a)(2) and persons who are exempt from FB or FT registration pursuant to new Section 4f(a)(3). Rather, these amendments establish procedures for requesting additional exemptive relief from provisions of the Act and/or the Commission's regulations for such persons. Consequently, the Commission believes that the adoption of these rule amendments will in many cases reduce the burden of compliance by persons notice-registered as FCMs or IBs and persons who are exempt from FB or FT registration pursuant to new Section 4f(a)(3). Accordingly, the Acting Chairman of the Commission hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed rule will not have a significant economic impact on a substantial number of small entities. Nonetheless the Commission specifically requests comment on the impact this proposed rule may have on small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'')[22] imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The Commission has submitted a copy of this part to the Office of Management and Budget (''OMB'') for its review.

Collection of Information

Requests for no-action, exemptive and interpretative letters. OMB Control Number 3038–0049.

The effect of the proposed rule will be to increase the burden previously approved by OMB by 1,000 hours because of the application for exemptive orders. The burden associated with the proposed addition of Rule 41.41 is estimated to be 1,000 hours, which will result from the application for exemptive orders by persons currently registered as BDs with the SEC who either choose to register as FCMs or IBs pursuant to the notice registration procedure of new Section 4f(a)(2) of the Act, or are exempt from FB or FT registration pursuant to new Section 4f(a)(3).

The estimated burden of the proposed new rule was calculated as follows:

Estimated number of respondents: 5,000.

Reports annually by each respondent: .4.

Total annual Responses: 2,000.

Estimated average Number of Hours Per Response: .5.

Estimated Total Number of Hours of Annual Burden in Fiscal Year: 1,000.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235 New Executive Building, Washington, DC 20503, Attention: Desk Officer for the Commodity Futures Trading Commission.

The Commission considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of 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.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed regulations.

Copies of the information collection submission to OMB are available from

[19] 47 FR 18618–21 (April 30, 1982).

[20] 47 FR at 18619–20.

[21] 47 FR at 18618, 18620.

[22] 44 U.S.C. 3501 et seq.

the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

C. Cost-Benefit Analysis

Section 119 of the CFMA amended Section 15 of the Act to require that the Commission, before promulgating a regulation under the Act or issuing an order, consider the costs and benefits of the Commission's action in light of five criteria.[23] The main considerations relevant to this proposal are the first two considerations set forth in the Act, ''protection of market participants and the public'' and ''efficiency, competitiveness and financial integrity of the futures markets.'' The Commission notes that the CFMA specifically mandates that procedures be established by which notice-registered FCMs and IBs and persons exempt from registering as FBs or FTs may seek orders granting additional exemptive relief beyond that specifically granted by the CFMA to such persons. The CFMA further authorizes the Commission to provide such exemptive relief, conditionally or unconditionally, by means of rulemaking. Accordingly, this proposal to adopt Rule 41.41 and the accompanying request for comments on provisions as to which further exemptive rulemaking may be appropriate are published in compliance with requirements that Congress has determined to be in the public interest.

Lists of Subjects

17 CFR Part 41

Security futures products.

17 CFR Part 140

Authority delegations.

For the reasons stated in the preamble, the Commission proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 41—SECURITY FUTURES PRODUCTS

1. The authority citation for Part 41 is revised to read as follows:

Authority: Pub. L. 106–554, 114 Stat. 2763, section 252.

2. Section 41.41 is added to read as follows:

[23] These considerations include: (A) protection of market participants and the public; (B) efficiency, competitiveness, and financial integrity of futures markets; (C) price discovery; (D) sound risk management practices; and (E) other public interest considerations.

§ 41.1–41.40 [Reserved]

§ 41.41 Application for an exemptive order pursuant to section 4f(a)(4)(B) of the Act.

(a) Any futures commission merchant or introducing broker registered in accordance with the notice registration provisions of § 3.10 of this chapter, or any broker or dealer exempt from floor broker or floor trader registration pursuant to section 4f(a)(3) of the Act, may apply to the Commission for an order pursuant to section 4f(a)(4)(B) of the Act granting exemption to such person from any provision of the Act or the Commission's regulations other than sections 4c(b), 4c(d), 4c(e), 4c(g), 4d, 4e, 4h, 4f(b), 4f(c), 4j, 4k(1), 4p, 6d, 8(d), 8(g), and 16 of the Act and the rules thereunder.

(b) An application pursuant to this section must set forth in writing or in an electronic mail message the following information:

(1) The name, main business address and main business telephone number of the person applying for an order;

(2) The capacity in which the person is registered with the Securities and Exchange Commission and the person's CRD number (if a member of the National Association of Securities Dealers, Inc.) or equivalent self-regulatory organization identification, together with a certification, if true, that the person's registration is not suspended pursuant to an order of the Securities and Exchange Commission;

(3) The particular section(s) of the Act and/or provision(s) of the Commission's regulations with respect to which the person seeks exemption;

(4) Any provision(s) of the securities laws or rules, or of the rules of a securities self-regulatory organization analogous to the provision(s);

(5) A clear explanation of the facts and circumstances under which the person believes that the requested exemptive relief is necessary or appropriate in the public interest; and

(6) A clear explanation of the extent to which the requested exemptive relief is consistent with the protection of investors.

(c) An application for an order must be submitted to the Director of the Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581, if in paper form, or to *tm@cftc.gov* if submitted via electronic mail.

(d) The Commission may, in its sole discretion, grant the application, deny the application, or grant the application subject to one or more conditions.

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

3. The authority citation for Part 140 continues to read as follows:

Authority: 7 U.S.C. 4a and 12a.

4. Section 140.91 is amended by adding and reserving paragraph (a)(7) and adding new paragraph (a)(8) to read as follows:

§ 140.91 Delegation of authority to the Director of the Division of Trading and Markets.

(a) * * *

(7) [Reserved.]

(8) All functions reserved to the Commission in § 41.41 of this chapter.

* * * * *

Issued in Washington, D.C. on April 12, 2001, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–9586 Filed 4–18–01; 8:45 am]

BILLING CODE 6351–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 241–0274b; FRL–6955–1]

Revisions to the California State Implementation Plan, Bay Area Air Quality Management District and Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Bay Area Air Quality Management District and Imperial County Air Pollution Control District portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from Aeration of Contaminated Soil and Removal of Underground Storage Tanks and Cutback Asphalt and Emulsified Paving Materials. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by May 21, 2001.

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

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

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109

Imperial County Air Pollution Control District, 150 South Ninth Street, El Centro, CA 92243

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, Rulemaking Office (Air–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1184.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: BAAQMD 8–40 and ICAPCD 426.

In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: March 2, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–9593 Filed 4–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA191–0278b; FRL–6963–2]

Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Ventura County Air Pollution Control District's (VCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from the following source categories: metal parts and products coating, aerospace assembly and component manufacturing, motor vehicle and mobile equipment coating, graphic arts, marine coatings, and wood products coatings. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by May 21, 2001.

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

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

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814; and,

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1226.

SUPPLEMENTARY INFORMATION: This proposal concerns the following VCAPCD rules: Rule 74.12—Surface Coating of Metal Parts & Products; Rule 74.13—Aerospace Assembly & Component Manufacturing; Rule 74.18—Motor Vehicle and Mobile Equipment Coating; Rule 74.19—Graphic Arts; Rule 74.24—Marine Coatings; and, Rule 74.30—Wood Products Coatings. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. However, if we receive adverse comments, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: March 19, 2001.

Mike Schulz,

Acting Regional Administrator, Region IX.

[FR Doc. 01–9591 Filed 4–18–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 0125–1125; IL 196–3; FRL–6968–7]

Approval and Promulgation of Implementation Plans; Missouri and Illinois; One-Hour Ozone Attainment Demonstrations, Reasonably Available Control Measures (RACM), and Contingency Measures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental proposed rule.

SUMMARY: On April 3, 2001, Environmental Protection Agency (EPA) proposed several actions for the St. Louis ozone nonattainment area. In that supplemental proposed rule, we noted that EPA would issue a separate proposal addressing how the St. Louis nonattainment area meets the respective requirements pertaining to the implementation of RACM and contingency measures under sections 172(c)(1) and 172(c)(9) of the Clean Air Act (CAA or the Act). In today's supplemental proposed rule, we are proposing to find that Missouri and Illinois have met the RACM requirements of the CAA and are proposing to find that the contingency measures identified by the states are adequate to meet the requirements of the Act. We are also proposing to approve the contingency measures implementation plan submitted by Missouri.

DATES: Written comments must be received on or before May 21, 2001.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; or Wayne Leidwanger, Chief, Air Planning and Development Branch, U.S. Environmental Protection Agency, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of the docket are available at the following addresses for inspection during normal business hours: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604 (please telephone Patricia

Morris at (312) 353–8656 before visiting the Region 5 office); or U.S. Environmental Protection Agency, Region 7, Air, RCRA, and Toxics Division, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353–8656, E-Mail Address: *morris.patricia@epa.gov;* or Lynn Slugantz, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101, Telephone Number (913) 551–7883, E-Mail Address: *slugantz.lynn@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we, us, or our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

Background and Submittal Information

- What is the scope of this proposed rule?
- What are the requirements for RACM under section 172(c)(1) of the CAA?
- How do the Missouri and Illinois SIPs for the St. Louis area address the RACM requirements?
- What are the requirements for contingency measures under section 172(c)(9) of the CAA?
- How do the Missouri and Illinois SIPs for the St. Louis area address the contingency measure requirements?

EPA's Proposed Actions

- Do the Missouri and Illinois SIPs meet the RACM and contingency measure requirements?
- What actions are we proposing today?

Background and Submittal Information

- What is the scope of this proposed rule?

This supplemental proposal addresses how Missouri and Illinois have addressed the RACM requirements of the CAA and the contingency measure requirements. Written comments on the issues discussed in this proposal may be submitted during the next 30 days. Although these requirements are separate from the approvability of the attainment demonstration, we will respond to any written comments on the issues discussed in this proposal in our final action on the Missouri and Illinois ozone St. Louis attainment demonstrations.

- What are the requirements for RACM under section 172(c)(1) of the CAA?

Section 172(c)(1) of the Act requires that SIPs provide for the implementation of all RACM as expeditiously as practicable. EPA has previously provided guidance interpreting the RACM requirements of 172(c)(1). (See 57 FR 13498, 13560.) In that guidance, EPA indicated its interpretation that potentially available measures that would not advance the attainment date for an area would not be considered RACM. EPA concluded that a measure would not be reasonably available if it would not advance attainment. EPA also indicated in that guidance that states should consider all potentially available measures to determine whether they were reasonably available for implementation in the area, and whether they would advance the attainment date. Further, states should indicate in their SIP submittals whether measures considered were reasonably available or not. If measures are deemed reasonably available, they must be adopted as RACM. Finally, EPA indicated that states could reject potential RACM measures either because they would not advance the attainment date, would cause substantial widespread and long-term adverse impacts, or for various reasons related to local conditions, such as economics or implementation concerns. EPA also issued a recent memorandum on this topic confirming its earlier guidance, ''Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas,'' John S. Seitz, Director, Office of Air Quality Planning and Standards, November 30, 1999. Web site: *http://www.epa.gov/ttn/oarpg/t1pgm.html.*

- How do the Missouri and Illinois SIPs for the St. Louis area address the RACM requirements?

Missouri

Section 3.0 of Missouri's November 1999 15% Rate-of-Progress Plan (ROPP), which was approved by EPA on May 18, 2000 (65 FR 31485),[1] is dedicated to the evaluation of potential control measures. The state considered an extensive list of potential control measures and has documented the measures which are not practicable based on considerations such as cost effectiveness and enforceability. Some examples of control measures that were not selected for implementation include rule effectiveness improvements, limits on volatile organic compound (VOC) content of pesticides, limits on VOC emissions from wineries and micro breweries, and various transportation control measures (TCM). Based on reviews of the state's analysis of additional measures and lists of control measures which have been implemented in other nonattainment areas, EPA believes that there are no other measures that Missouri could have implemented that would have substantially accelerated achievement of the target level of VOC emissions for the state's ROPP. EPA is not aware of other practicable measures which will result in comparable emissions reductions that can be implemented sooner than those contained in Missouri's ROPP.

Illinois

In a June 30, 1995, submittal,[2] initially intended as an update to the state's attainment demonstration, Illinois stated, ''In adopting these measures, the State has demonstrated our commitment to seek all reasonable volatile organic compound (VOC) reduction measures that can be applied in that area [metro-east St. Louis] * * *.''[3] Illinois considered a number of measures for point, area and mobile sources. Illinois went beyond the CAA requirements for moderate areas by implementing an enhanced inspection and maintenance (I/M) program and improved rule effectiveness on stationary sources. Illinois held a public hearing on December 21, 1994, on these materials and took public comment on the modeling and conclusions. In the documentation materials, Illinois states ''Additional control of local emission sources, if implemented, would provide only marginal air quality improvements, and at significantly greater expense. All practicable controls have been, or will soon be, implemented.''

In addition, Illinois submitted documentation on VOC reduction measures which the state implemented in conjunction with its 15% ROPP. These measures resulted in emissions reductions beyond those required to meet the state's rate-of-progress obligations under section 182(b)(1)(A) of

[1] A petition for review of EPA's approval is pending in the 8th Circuit of the U.S. Court of Appeals in *Sierra Club* v. *EPA*, No. 00–2744.

[2] The state has since submitted revisions to its attainment demonstration which were the subject of proposed rulemakings published on April 17, 2000, and April 3, 2001. (65 FR 20404 and 66 FR 17647, respectively.)

[3] The measures to which the statement refers are control measures the state determined to be necessary to attain the ozone NAAQS through air quality modeling.

the CAA. Under this provision of the Act, the state was obligated to achieve VOC emissions reductions of 26.66 tons per day (TPD). Accounting for a separate requirement to implement contingency control measures (to be implemented if the area failed to achieve reasonable further progress), which would achieve further VOC reductions of 3 percent of the adjusted base year requirement or 4.96 TPD, the total reduction required was 31.62 TPD. Illinois' ROPP, which was approved by EPA on December 18, 1997 (62 FR 66279), included emissions reductions of 38.12 TPD. A number of TCMs were included as implemented measures which contributed 0.2 TPD reduction. The TCM selection process has been documented by the East-West Gateway Coordinating Council (EWGCC), St. Louis' metropolitan planning organization (MPO), in its report, ''Transportation Control Measures Completion Report'' dated February 1998. A copy of that report can be found in the docket for this proposed rule or via the World Wide Web at http://www.ewgateway.org/trans/TransReadingRoom/transreadingroom.htm#Rpts.

EPA has performed an analysis to evaluate emission levels of oxides of nitrogen (NO_X) and VOCs and their relationships to the application of current and anticipated control measures expected to be implemented in the Illinois portion of the St. Louis one-hour ozone nonattainment area. This analysis was done to determine if additional stationary source RACM are available after adoption of the CAA-required measures for this area. The analysis EPA conducted demonstrates that a number of possible stationary source emission control measures have been evaluated for their emission reductions. It further demonstrates that the measures evaluated would not advance the attainment date for the area, and therefore would not be considered RACM under the Act. Based on this analysis which is contained in the docket and available for public review, EPA concluded these measures would not advance the attainment date in the area and therefore are not considered RACM. The VOC and NO_X controls potentially available are about 4.2 percent and 3.0 percent, respectively, of the total emissions reductions needed for attainment from 1990 to the 2004 attainment year in the entire nonattainment area.

EPA believes controls on these categories are not considered RACM. EPA reached this conclusion primarily because the reductions expected to be achieved by the potential RACM measures are relatively small, 9.2 tons per day of VOC and 8.4 tons per day of NO_X for stationary sources, as compared to the emissions reductions needed within the nonattainment area to reach attainment.

Missouri and Illinois

EWGCC, the MPO for St. Louis, in conjunction with the Illinois and Missouri air quality agencies, evaluated TCMs for implementation in the St. Louis area. In 1993, Apogee Research Inc., prepared a report entitled, ''*St. Louis Region TCM Analysis.*'' This report identified a number of TCMs which had the potential to be implemented before 1997 and which could be expected to result in significant air quality benefits. Each TCM was evaluated in terms of its emission reduction benefits and its cost effectiveness. All of the short-term measures suggested in the report were endorsed by the Council, subject to funding and, where necessary, legislative changes. These measures included: activity center based trip reduction; areawide ridesharing; work trip reduction; transit improvements; signal timing; intersection improvements; incident management; traffic flow improvements; and a Missouri fuel tax increase. These TCMs were identified in both the Missouri and Illinois ROPPs which EPA has approved. The emissions reductions associated with these measures were estimated to be 2.06 TPD for Missouri and 0.29 TPD for Illinois and were to be achieved by 1997.

In addition to the TCMs in the SIP, other TCMs were identified and implemented that were not credited in the SIP. These include: bus replacement; bicycle transportation program; bicycle facilities for transit; bikeway or bike trail; bike and pedestrian way; transportation management association; and demand management. The calculated benefits from these TCMs however, were small in terms of emission reductions. The February 1998 document *Transportation Control Measures Completion Report* gives a status report on the implementation and effectiveness of the TCMs from the Apogee report that were implemented in the St. Louis area. One of the more effective TCMs was the Metrolink which opened in 1994 with a recorded 7 million riders during 1994, and expanded to 14 million riders by 1997.

The TCMs identified in these reports are all the potential TCMs that were considered reasonably available. These types of TCMs have continued to be implemented and reductions estimated for future years. Many of the TCMs have been funded with money from the Congestion Mitigation and Air Quality program funds. There are no additional TCM measures identified as RACM that can advance the attainment date.

In addition, the St. Louis nonattainment area relies in part on reductions from outside the nonattainment area from EPA's NO_X SIP call or section 126 rule (65 FR 2674, January 18, 2000) to reach attainment. In the NO_X SIP call (63 FR 57356), EPA concluded that reductions from various upwind states were necessary to provide for timely attainment of the ozone standard in various downwind states, including in Missouri and Illinois. The NO_X SIP call therefore established requirements for control of sources of significant emissions in all upwind states. However, these reductions are not slated for full implementation until May 2004.

The Missouri and Illinois attainment demonstrations for the St. Louis nonattainment area indicate that the ozone benefit expected to be achieved from regional NO_X reductions (such as the NO_X SIP call) are substantial. (See the attainment demonstrations in the docket.) Therefore, EPA concludes, based on the available documentation, that since the reductions from potential RACM measures do not nearly equate to the reductions needed to demonstrate attainment, none of the potential RACM measures could advance the attainment date prior to full implementation of NO_X emission control rules in 2004 and implementation by 2004 of all local measures already included in the states' ozone attainment demonstrations, and thus none of these potential measures can be considered RACM.

Furthermore, both states have submitted air quality modeling results which show that additional VOC and NO_X controls within the nonattainment area will not accelerate attainment of the national ambient air quality standard (NAAQS) for ozone. The previously discussed, June 30, 1995, air quality modeling included the results of various ''sensitivity'' analyses.[4] In these analyses, Illinois and Missouri tested the air quality benefits (with respect to ozone concentrations) of further VOC and NO_X reductions within the nonattainment area. Relative to their 1996 nonattainment area emissions inventories, the states tested the impacts of: (1) reducing VOC by 30 percent; (2) reducing NO_X by 30 percent; and (3) reducing both VOC and NO_X by 30

[4] Although the attainment modeling for the St. Louis area has been revised since the 1995 submittal, EPA believes the sensitivity analyses are still valid.

percent. The results of that modeling showed that reductions of these magnitudes would not accelerate attainment of the ozone standard. It was only when the states tested the impacts of VOC and NO_X reductions beyond boundaries of the nonattainment area that the modeling indicated improvements in air quality to the degree necessary to attain the standard. In other words, the transport of ozone and precursor emissions from upwind areas significantly contribute to St. Louis' nonattainment problem. Air quality modeling which EPA performed in association with the NO_X SIP call (63 FR 57356) confirmed the states' analyses. This conclusion has been expressed in previous rulemakings pertaining to the St. Louis area as the basis for proposing to extend the area's attainment date (66 FR 17647).

Based on the information presented above, EPA believes the states have identified and implemented all RACM. Any additional measures would be unlikely to achieve the levels of local precursor emissions reductions needed to have a significant impact on ozone concentrations and hence accelerate attainment. Furthermore, the states and EPA have demonstrated that reductions in upwind emissions are necessary for attainment of the standard, and that these upwind emission reductions provide a significantly greater improvement in local peak ozone concentrations than do available local emission reductions.

• What are the requirements for contingency measures under section 172(c)(9) of the CAA?

Section 172(c)(9) of the Act requires SIPs to contain additional measures that will take effect without further action by the state or EPA if an area fails to attain the standard by the applicable date. The CAA does not specify how many contingency measures are needed or the magnitude of emissions reductions that must be provided by these measures. However, EPA provided guidance interpreting the control measure requirements of 172(c)(1) in the April 16, 1992, General Preamble for Implementation of the Clean Air Act Amendments (CAAA) of 1990. (See 57 FR 13498, 13510.) In that guidance, EPA indicated that states with moderate and above ozone nonattainment areas should include sufficient contingency measures so that, upon implementation of such measures, additional emissions reductions of up to 3 percent of the emissions in the adjusted base year inventory (or such lesser percentage that will cure the identified failure) would be achieved in the year following the year in which the failure has been identified. States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative reviews. The additional 3 percent reduction would ensure that progress toward attainment occurs at a rate similar to that specified under the reasonable further progress requirements for moderate areas (i.e., 3 percent per year), and that the state will achieve these reductions while conducting additional control measure development and implementation as necessary to correct the shortfall in emissions reductions.

EPA has also determined that Federal measures can be used to analyze whether the contingency measure requirements of section 179(c)(9) have been met. While these measures are not SIP-approved contingency measures which would apply if an area fails to attain, EPA believes that existing Federally enforceable measures can be used to provide the necessary substantive relief. Therefore, Federal measures may be used in the analysis, to the extent that the attainment demonstration does not rely on them or take credit for them. (See, e.g., 66 FR 586, 615 (January 3, 2001).)

• How do the Missouri and Illinois SIPs for the St. Louis area address the contingency measure requirements?

Missouri

Calculation of Missouri's total 1990 adjusted base year inventory for VOC emissions for the Missouri portion of the nonattainment area is detailed in EPA's February 7, 2000, technical support document for Missouri's 15% ROPP, which we approved on May 18, 2000 (65 FR 31485). Missouri's 1990 adjusted base year inventory of VOC emissions is 315.70 TPD. Per EPA's guidance, Missouri's contingency measures must achieve VOC reductions equivalent to 3 percent of the adjusted base year inventory, or 9.47 TPD.

The Missouri Department of Natural Resources (MDNR) submitted a Contingency Plan for the St. Louis ozone nonattainment area in October 1997. In that submittal, MDNR reviewed various control measures and proposed two contingency measures, implementation of a state rule regulating the use of solvents for metal cleaning, and implementation of a Federal rule limiting emissions from small gasoline powered engines. State rule 10 CSR 10–5.300, ''Control of Emissions from Solvent Metal Cleaning,'' was adopted by the Missouri Air Conservation Commission (MACC) on February 3, 1998, and approved by EPA on May 18, 2000, 65 FR 31485. It is projected to reduce VOC emissions in the nonattainment area by 9.0 TPD. The Federal small engine rule was projected to reduce VOC emissions in the nonattainment area by 1.22 TPD. However, a part of the reductions resulting from the solvent metal cleaning rule (0.64 TPD) and all of the reductions resulting from the Federal small engine standards rule (1.22 TPD) were accounted for in EPA's approval of Missouri's 15% ROPP, leaving a balance of 8.36 TPD of reductions from these two measures that remained creditable toward the state's obligation to provide measures that could reduce emissions by 9.47 TPD. This created a shortfall of 1.11 TPD with respect to the contingency measure requirement. MDNR has addressed this shortfall by submitting a supplement to its contingency plan. On April 5, 2001, Missouri submitted an analysis of the VOC reductions that will be achieved through the implementation of the Federal Tier 2/low sulfur gasoline rule during 2005 and 2006.[5]

Based on MDNR's analysis, implementation of the Tier 2/low sulfur gasoline rule will result in VOC emissions reductions of 1.59 TPD during this period. Implementation of Missouri's revised Contingency Plan which includes the state's metal cleaning rule and substitutes the Federal Tier 2/low sulfur gasoline rule for the small engine standards rule, would result in emissions reductions of 10.59 TPD. Subtracting out the 0.64 TPD previously applied to Missouri's 15% ROPP, the state's revised Contingency Plan provides for VOC emissions reductions of 9.95 TDP which exceeds the required reductions of 9.47 TPD.

Illinois

Illinois has identified surplus emission reductions that occur thru the year 2006 that are available as contingency measure reductions. These contingency measure reductions are not the same reductions as were approved as contingency measures for the 15% Plan for Illinois (62 FR 37494). The contingency measure reductions approved at that time were implemented by 1998 and were included in the most recent attainment demonstration modeling for the St. Louis area. Thus, these measures have already been ''used'' to demonstrate attainment. Contingency measures for the ozone attainment demonstration must be above and beyond (or surplus

[5] This is the period in which the requirement to implement contingency measures would be triggered and the reductions achieved.

to) the measures that were modeled in the attainment demonstration or used to show attainment of the one-hour ozone standard. Illinois also submitted an updated emission inventory in support of a 2004 attainment date in connection with its attainment demonstration. The reductions listed here have been reviewed for their applicability as contingency measures surplus to any previous reductions or crediting.

The total amount of reduction needed for Illinois to meet the contingency measure requirement in the Metro-East St. Louis nonattainment area is 3 percent of the adjusted base year emissions inventory or 4.96 TPD. The control measures to achieve the required reductions are listed in the following table:

ILLINOIS CONTINGENCY MEASURE REDUCTIONS

Control measure	Reduction (TPD)
Mobile Source Measures*	1.61
Tier 2/Low Sulfur Fuel Program	0.08
On-Board Diagnostics (OBD)	2.86
Non-Road Engine Standards	1.99
Total	6.54

*This is the difference between estimated emissions in the Metro-East area in 2004 (27.51 TPD) and those in 2006 (25.90 TPD) calculated using MOBILE5b.

Illinois is relying on a number of Federal rules to serve as contingency measures. The mobile source measures consist of incremental reductions from the Federal motor vehicle control program and other measures already in place. In addition, several other Federal measures are relied upon which include the OBD rule, the Non-Road Engine Standards, and the Tier 2/low sulfur fuel rule. Illinois has documented the methodology for the calculations of the emission reductions and this material is available in the docket. The measures and the reduction calculations are summarized here.

The OBD test standards have already been adopted by Illinois in Title 35 Subtitle B subpart H Part 240. These rules required Illinois to begin OBD testing in its I/M program on January 1, 2001. However, on March 28, 2001, the EPA Administrator signed a final rulemaking to amend the vehicle I/M program requirements to incorporate a check of the OBD system and extend the date that states needed to comply until January 1, 2002. Implementation of this check during the already implemented I/M program in the Metro-East St. Louis area starting in January 2002 is estimated to result in the 2.86 TPD emissions reduction. Because Illinois did not include any OBD emissions reductions in its attainment demonstration emission estimates, the entire 2.86 TPD are creditable toward the contingency measures requirement.

The non-road engine standards apply to all sizes of non-road diesel engines. These engines include lawn and garden equipment, larger industrial equipment, marine engines, recreational vehicles, locomotives, and aircraft engines. The standards are phased in with Tier 2 standards from 2001–2006 and more stringent Tier 3 standards for larger engines from 2006–2008. The emissions reduction for the contingency measure is the difference between the 2004 estimated emissions and the 2006 estimated emissions (or 1.99 TPD). More detail on the emissions calculation is provided in the docket.

The Tier 2/low sulfur fuel rule promulgated by EPA begins to take effect in 2004. Illinois used EPA's MOBILE5 information sheet #8 to estimate reductions. The reduction listed in the table represents the difference between the 2006 estimate (0.97 TPD) and the 2004 estimate (0.89 TPD).

These reductions meet the criteria for reductions to be used as contingency measures. The measures are already adopted for implementation and will provide for specific emission control measures if the area fails to attain the ozone standard. The measures will take effect without any further action by the state or by the EPA Administrator. The reductions are surplus to the attainment demonstration. Therefore, EPA proposes to find that these measures meet the contingency measure requirements for the Illinois Metro-East St. Louis ozone area.

EPA's Proposed Actions

• Do the Missouri and Illinois SIPs meet the RACM and contingency measure requirements?

EPA has reviewed the submitted sensitivity analyses, the process used by the MPO to review and select TCMs, the states' evaluation of potential stationary source control measures, and the attainment year emissions inventories for the St. Louis area. While the CAA requires nonattainment areas to implement available RACM measures, EPA does not believe that section 172(c)(1) requires implementation of potential RACM measures that either require costly implementation efforts or that produce relatively small emissions reductions that will not accelerate attainment of the ozone standard.

Sensitivity modeling for the St. Louis moderate ozone area indicates that the ozone benefit expected to be achieved from regional NO_X reductions (such as the NO_X SIP call) are far greater than reductions that could be achieved by implementing the measures which have been rejected as RACM. Therefore, EPA believes that the reductions from such measures would not accelerate attainment of the ozone NAAQS.

In addition, EPA believes that both Missouri and Illinois have identified adequate contingency measures. In Missouri's case, implementation of its solvent cleaning rule, 10 CSR 10–5.300, will provide for emissions reductions of 8.36 TPD and implementation of the Federal Tier 2/low sulfur gasoline rule will provide for emissions reductions of 1.59 TPD for combined emissions reductions of 9.95 TPD which exceeds the required reductions of 9.47 TPD. In the case of Illinois, Illinois has identified emissions reductions of 6.54 TPD from OBD, Tier 2, Non-Road Engine Standards and other mobile source measures which exceed the required reductions of 4.96 TPD. Therefore, EPA believes that both Missouri and Illinois have identified contingency measures which will provide for a 3 percent reduction in VOC emissions from the 1990 adjusted base year inventory, as required by section 172(c)(9) of the CAAA.

What Actions Are We Proposing Today?

EPA is proposing to find that the St. Louis nonattainment area SIPs adequately provide for RACM and contingency measures. EPA is also proposing to approve the contingency measures SIP submitted by Missouri in October 1997, as supplemented by a letter dated April 5, 2001.

Administrative Requirements

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

Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 12, 2001.

William A. Spratlin,

Acting Regional Administrator, Region 7.

[FR Doc. 01–9727 Filed 4–18–01; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–863, MM Docket No. 01–85, RM–9039]

Television Broadcast Service; Boise, ID

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by KM Communications, Inc., an applicant for a construction permit for a new TV station on channel 14 at Boise, Idaho, requesting the substitution of channel 39 for channel 14 at Boise. Channel 39 can be allotted to Boise, Idaho, in compliance with Section 73.610 of the Commission's Rules with a zero offset at coordinates (43–45–18 N. and 116–05–52 W.). Pursuant to the provisions outlined in the Commission's Public Notice, released November 22, 1999, DA 99–2605, we will not accept competing expressions of interest in the use of television channel 39 at Boise.

DATES: Comments must be filed on or before May 31, 2001, and reply comments on or before June 15, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jeffrey L. Timmons, Irwin, Campbell & Tannenwald, P.C., 1730 Rhode Island Avenue, NW., Suite 200, Washington, DC 20036–3101 (Counsel for KM Communications, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–85, adopted April 6, 2000, and released April 9, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Idaho is amended by removing TV Channel 14 and adding TV Channel 39 at Boise.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–9677 Filed 4–18–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–861, MM Docket No. 01–82, RM–10068]

Television Broadcast Service; Bend, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by 3–J

Broadcasting Company requesting the allotment of channel 51 to Bend, Oregon, as the community's second local commercial television service. Channel 51 can be allotted to Bend consistent with section 73.623(d) of the Commission's Rules with a zero offset at coordinates (44–03–30 N. and 121–18–30 W.). Pursuant to the provisions outlined in the Commission's Public Notice, released November 22, 1999, DA 99–2605, we will not accept competing expressions of interest in the use of television channel 51 at Bend.

DATES: Comments must be filed on or before May 31, 2001, and reply comments on or before June 15, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Gene A. Bechtel, Bechtel & Cole, Suite 250, 1901 L Street, NW, Washington, DC 20036 (Counsel for 3–J Broadcasting Company).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–82, adopted April 6, 2001, and released April 9, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, S.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Oregon is amended by adding TV Channel 51 at Bend.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–9678 Filed 4–18–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–862, MM Docket No. 01–84, RM–10067]

Television Broadcast Service; Bay City, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Vista Communications, Inc. and Pelican Broadcasting Company, Inc., mutually exclusive applicants for a construction permit for a new TV station on channel 61 at Bay City, Michigan, requesting the substitution of channel 46 for channel 61+ at Bay City. TV channel 46 can be allotted to Bay City, Michigan, in compliance with section 73.623(c) of the Commission's Rules with a minus offset at coordinates (43–26–07 N. and 84–26–12 W.). However, since the community of Bay City is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government must be obtained for this proposal. Pursuant to the provisions outlined in the Commission's Public Notice, released November 22, 1999, DA 99–2605, we will not accept competing expressions of interest in the use of television channel 46– at Bay City.

DATES: Comments must be filed on or before May 31, 2001, and reply comments on or before June 15, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Vincent A. Pepper, Pepper & Corazzini, LLP, 1776 K Street NW, Suite 200, Washington, DC 20006 (Counsel for Vista Communications); and , Bruce A. Eisen, Kaye, Scholer, Fierman, Hays & Handler, LLP, Suite 1100, 901 15th Street, NW, Washington, DC 20005 (Counsel for Pelican Broadcasting Company, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–84, adopted April 6, 2001, and released April 9, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, S.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Michigan is amended by removing TV Channel 61+ and adding TV Channel 46– at Bay City.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–9679 Filed 4–18–01; 8:45 am]

BILLING CODE 6712–01–P '

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[I.D. 121800E]

Pacific Tuna Fisheries; Public Hearing

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

ACTION: Notice of public hearing.

SUMMARY: On March 30, 2001, NMFS published a proposed rule under the authority of the Tuna Conventions Act of 1949 (Act). NMFS indicated in the proposed rule that a public hearing would be held to obtain public comment on the proposed rule. This notice announces the place, date, and time of the hearing. In addition to holding the hearing, NMFS is accepting written comments on the proposed rule.

DATES: The public hearing will be held on April 27, 2001, at 9 a.m. Written comments will be accepted through April 30, 2001.

ADDRESSES: The public hearing will be held at the Embassy Suites Hotel, 601 Pacific Highway, San Diego, CA 92101; telephone: 619–239–2400; fax: 619–239–1520. Written comments should be sent to Svein Fougner, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802, or faxed to 562–980–4047. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, (562) 980–4040.

SUPPLEMENTARY INFORMATION: On March 30, 2001, NMFS published a proposed rule (66 FR 17387) to implement two recommendations that were agreed to by the Inter-American Tropical Tuna Commission (IATTC) and approved by the Department of State in accordance with the Act. The first recommendation would establish measures implementing a 1-year pilot program to reduce bycatch in the tuna purse seine fisheries conducted by vessels from members of the IATTC. The second would require commercial fishermen who fish in the Convention Area (set forth at 50 CFR part 300, subpart C) to report certain information about their vessels for a regional vessel register being developed by the IATTC. Under the Act, a public hearing must be held before implementing IATTC recommendations.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Svein Fougner (see **ADDRESSES**), 562–980–4040 (voice) or 562–980–4047 (facsimile), at least 5 days prior to the hearing date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 13, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–9732 Filed 4–18–01; 8:45 am]

BILLING CODE 3510–22 –S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 040501C]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper

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

ACTION: Notice of receipt of petition for emergency rulemaking and request for comments.

SUMMARY: NOAA announces receipt of a petition for emergency rulemaking or fishery management plan action under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Steven Act) and the Administrative Procedure Act. The Texas Shrimp Association (TSA) has petitioned the U.S. Department of Commerce to promulgate an emergency rule to reduce the 2001 total allowable catch (TAC) in the directed commercial and recreational fisheries for red snapper in the Gulf of Mexico from 9.12 million lb (4.14 million kg) to not more than 3 million lb (1.36 million kg). Also, the TSA petition requests that the emergency action shorten the recreational fishing season as part of the TAC reduction effort.

DATES: Comments will be accepted through May 21, 2001.

ADDRESSES: Copies of the petition are available, and written comments on the need for such a regulation, its objectives, alternative approaches, and any other comments may be addressed to Phil Steele, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702; telephone 727–570–5305. Comments may also be sent via fax to 727–570–5583. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone 727–570–5305, fax 727–570–5583, e-mail Phil.steele@noaa.gov.

SUPPLEMENTARY INFORMATION: The petition filed by TSA maintains that overfishing has been occurring in the Gulf of Mexico red snapper fishery and will occur again in 2001, thereby necessitating emergency rulemaking to reduce the 2001 TAC for the directed fisheries. Included in the requested emergency action for TAC reduction is a request to shorten the recreational fishing season (currently April 21–October 31, 2001).

The TSA petition states that the following are causes of previous and continuing overfishing: (1) TSA asserts that the current definition of ''optimum yield'' (OY) in the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico does not conform to the more rigorous definition of OY required by the Sustainable Fisheries Act of 1996, which amended the Magnuson-Stevens Act; (2) TSA asserts that NMFS' scientific studies indicate that bycatch reduction devices required in shrimp trawls in the exclusive economic zone of the Gulf of Mexico west of Cape San Blas, Florida, have reduced juvenile red snapper mortality by 40 percent or less instead of the 50 to 60 percent reduction necessary as a basis for the present 9.12-million–lb (4.14–million kg) TAC. Further, TSA asserts that NMFS and the Gulf of Mexico Fishery Management Council (Council) have greatly exaggerated the importance (positive impact) of bycatch reduction for rebuilding the red snapper stock; (3) TSA asserts that recent scientific information presented to the Council's Scientific Advisory Committee indicates that the overfished condition of the red snapper fishery is a result of excessive fishing pressure by the directed fisheries, in particular the recreational sector of the fishery, and not because of bycatch mortality associated with shrimp harvest; (4) TSA states that the recreational sector of the directed fishery continues to exceed its annual quota under the present season opening and closing dates; (5) TSA states that NMFS is significantly underestimating fishing effort in the recreational sector, which allows that sector to harvest red

snapper in excess of its share of the TAC; and (6) TSA asserts that NMFS has failed to make a reduction in the recreational sector's share of the TAC to account for these excessive harvests.

NMFS will consider public comments received in determining whether or not to proceed with the development of the emergency regulations requested by TSA. Upon determining whether or not to initiate the requested rulemaking, the Assistant Administrator for Fisheries, NOAA, will publish a notice of the agency's final disposition of the TSA petition request in the **Federal Register**.

Dated: April 13, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–9733 Filed 4–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 041001A]

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 2–day Council meeting, on May 2 and May 3, 2001, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Wednesday and Thursday, May 2 and 3, at 9 a.m. and 8:30 a.m., respectively.

ADDRESSES: The meeting will be held at the Holiday Inn, 1 Newbury Street, Route 1 North, Peabody, MA 01960; telephone (978) 535–4600. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Wednesday, May 2, 2001

After introductions, the Council will receive 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, NOAA General Counsel and representatives of the U.S. Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. An expanded enforcement briefing will be provided by the U.S. Coast Guard. NMFS also will report to the Council about funds dispersed through the Northeast Marine Fisheries Initiative. These reports will be followed by a NMFS presentation on the status of the North Atlantic right whale. During the afternoon session, the Council staff will present issues and options under consideration by the Herring Committee for a limited entry/controlled access system for Area 1A (inshore Gulf of Maine) as described in the Atlantic Herring Fishery Management Plan (FMP). The Red Crab Committee will request approval of management measures to be analyzed in the Draft Environmental Impact Statement for the Red Crab FMP.

Thursday, May 3, 2001

The Council's Skate Committee will request approval of goals and objectives for the Northeast Skate Complex FMP. The Council will spend the rest of the day addressing groundfish issues. The Groundfish Committee will ask the Council for approval of draft management measures to be analyzed in the Draft Supplemental Environmental Impact Statement for Amendment 13 to the Northeast Multispecies FMP. Measures under consideration include: (1) habitat-related alternatives (methods to designate Essential Fish Habitat, Habitat Areas of Particular Concern designations, and measures to minimize adverse impacts associated with fishing activities); (2) refinement of status quo measures using existing management tools; (3) an area-based regime using area specific measures that may include measures to address unused days-at-sea; and (4) the allocation of resources to different industry sectors that may include measures to address unused days-at-sea. 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 subjects 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 notification that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

The Council will consider public comments at a minimum of two Council meetings before making recommendations to the NMFS 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: April 12, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–9650 Filed 4–18–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 76
Thursday, April 19, 2001

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

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: #393, Filter Strip; #655, Forest Trails and Landings; #561, Heavy Use Area Protection; #521A, Pond Sealing or Lining, Flexible Membrane; 643, Restoration and Management of Declining Habitats; and #657, Wetland Restoration 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 until May 21, 2001.

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) 287–1736. 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/DataTechRefs/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 State 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: April 12, 2001.

Dwight A. Towler,

Assistant State Conservationist/Field Operations, Natural Resources Conservation Service, Richmond, Virginia.

[FR Doc. 01–9670 Filed 4–18–01; 8:45 am]

BILLING CODE 3410–16–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041301A]

High Seas Fishing Vessel Reporting Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 18, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bob Dickinson, F/SF4, Room 13304, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2276, ext. 154).

SUPPLEMENTARY INFORMATION:

I. Abstract

Operators of vessels licensed under the High Seas Fishing Compliance Act are required to report their catch and fishing effort when fishing on the high seas. The requirement is for fishery management purposes and to provide data to international organizations. Vessels already maintaining logbooks under other specific regulations are not required to maintain an additional logbook.

II. Method of Collection

Paper logbook pages are submitted.

III. Data

OMB Number: 0648–0349.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 550.

Estimated Time Per Response: 3 minutes per day for days fish are caught, 1 minute per day for days when fish are not caught.

Estimated Total Annual Burden Hours: 550.

Estimated Total Annual Cost to Public: $1,000.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 11, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–9736 Filed 4–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041301B]

High Seas Fishing Vessel Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 18, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bob Dickinson, F/SF4, Room 13304, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2276, ext. 154).

SUPPLEMENTARY INFORMATION:

I. Abstract

Operators of vessels licensed under the High Seas Fishing Compliance Act are required to mark their vessels in three (3) locations with their official number or radio call sign. The requirement is for enforcement purposes.

II. Method of Collection

No information is submitted, only displayed on the vessel.

III. Data

OMB Number: 0648–0348.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time Per Response: 45 minutes (15 minutes for each of 3 locations).

Estimated Total Annual Burden Hours: 37.

Estimated Total Annual Cost to Public: $1,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 11, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–9737 Filed 4–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

[I.D. 041601A]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: NOAA Customer Surveys.

Form Number(s): None.

OMB Approval Number: 0648–0342.

Type of Request: Regular submission.

Burden Hours: 1,800.

Number of Respondents: 70,000.

Average Hours Per Response: Varies from 1-15 minutes, depending on specific survey.

Needs and Uses: This is a request for a generic clearance for voluntary customer surveys to be conducted by NOAA program offices to determine whether their customers are satisfied with products and/or services being received and whether they have suggestions for improving those products and services. NOAA is not planning a NOAA-wide survey. The request is for approval of generic lists of questions which individual program offices would select from and adapt to meet their specific needs. Those specific surveys would then be sent to OMB for fast-track review to ensure that the proposal is consistent with the generic clearance and well-planned.

Affected Public: Business or other for-profit organizations, individuals or households, not-for-profit institutions, farms, Federal Government, and State, Local, or Tribal Government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482-3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: April 12, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–9734 Filed 4–18–01; 8:45 am]

BILLING CODE 3510–12–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041001D]

Antarctic Marine Living Resources Convention Act of 1984; Conservation and Management Measures

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

ACTION: Final notice.

SUMMARY: At its Nineteenth Meeting in Hobart, Tasmania, October 23 to

November 3, 2000, the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), of which the United States is a member, adopted conservation measures, pending members' approval, pertaining to fishing in the CCAMLR Convention Area in Antarctic waters. These were agreed upon in accordance with Article IX of the Convention for the Conservation of Antarctic Marine Living Resources.

ADDRESSES: Copies of the CCAMLR measures and the framework environmental assessment may be obtained from the Assistant Administrator for Fisheries, NOAA, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Robin Tuttle, 301–713–2282.

SUPPLEMENTARY INFORMATION: See 50 CFR part 300, subpart G–Antarctic Marine Living Resources, and the Department of State's notice at 66 FR 7527, January 23, 2001.

The measures restrict overall catches and bycatch of certain species of fish, krill, squid, and crab; limit participation in several exploratory fisheries; restrict fishing in certain areas and to certain gear types; set fishing seasons; amend the catch documentation scheme for *Dissostichus* species; add to the procedures for minimizing the incidental take of seabirds in longline fishing; make technical amendments to the conservation measures related to research activities; and amend previously adopted measures relating to reporting requirements, licensing and inspection obligations of Contracting Parties, cooperation between Contracting Parties, and the use of automated satellite-linked vessel monitoring systems (VMS) on Contracting Party vessels fishing in the Convention Area. The Commission also adopted resolutions urging action with respect to illegal fishing and the implementation of the Catch Documentation Scheme for *Dissostichus* species.

The measures and resolutions were announced by the Department of State by a preliminary notice in the **Federal Register** on January 23, 2001. Public comments were invited, but none were received. NMFS implements these measures by this final notice, consistent with the framework process specified in the International Fisheries Regulations (50 CFR 300.111).

CCAMLR approved several fisheries as exploratory fisheries for the 2000/2001 fishing season. These fisheries are limited total allowable catch (TAC) fisheries and, with the exception of an exploratory fishery for *M. hyadesi* in Statistical Subarea 48.3 open to all Contracting Party vessels, are open only to the flagged vessels of the countries that notified CCAMLR of an interest by participants in the fisheries. The United States was not a notifying country, and, thus, U.S. fishers are not eligible to participate in them. The exploratory fisheries are for longline fishing for *Dissostichus* species in Statistical Subarea 48.6 by Argentina, Brazil and South Africa; trawl fishing on the BANZARE Bank by Australia; longline fishing for *Dissostichus* species on BANZARE Bank outside areas under national jurisdiction by Argentina and France; trawl fishing for *Dissostichus* species on Elan Bank (Statistical Division 58.4.3) by Australia; longline fishing for *Dissostichus* species on Elan Bank (Statistical Division 58.4.3) outside areas of national jurisdictions by Australia and France; trawl fishing for *Dissostichus* species in Statistical Division 58.4.2 by Australia; longline fishing for *Dissostichus* species in Statistical Division 58.4.4 by Argentina, Brazil, France, South Africa, Ukraine and Uruguay; longline fishing for *Dissostichus eleginoides* in Statistical Subarea 58.6 by Argentina, France and South Africa; longline fishing for *Dissostichus* species in Statistical Subareas 88.1 by New Zealand, South Africa and Uruguay; longline fishing for *Dissostichus* species in Statistical Subarea 88.2 by South Africa and Uruguay; and trawl fishing for *Chaenodraco wilsoni*, *Lepidonotothen kempi*, *Trematomus eulepidotus* and *Pleuragramma antarcticum* in Statistical Division 58.4.2 by Australia.

Participation in the Convention Area crab fishery continues to be limited to one vessel per Commission member. Applications for a crab permit must be received no later than 90 days prior to intended harvesting and will be considered in the order of application. If there are multiple applicants, the one U.S. crab permit will be issued on the basis of (1) order of receipt of applications (2) criteria for harvesting permits appearing in 50 CFR 300.112 (3) willingness to participate in CCAMLR pilot programs and (4) record of previous participation, if any, in the crab fishery.

The Commission amended the conservation measure and Explanatory Memorandum for the Catch Documentation Scheme for *Dissostichus* species to improve the catch document and clarify the memorandum.

The Commission also amended the conservation measure specifying aspects of cooperation among Contracting Parties so that vessels known to be engaged in illegal, unregulated or unreported fishing must be denied port access, other than for emergency purposes.

The Commission revised the procedures for minimizing the incidental mortality of seabirds in the course of longline fishing or longline fishing research in two ways. One, by requiring that vessels using the Spanish method of longline fishing release weights before line tension occurs and use weights of at least 8.5 kg mass, spaced at intervals of no more than 40 meters, or 6 kg mass spaced at intervals of no more than 20 meters. Two, by requiring that vessels unable to process or retain offal on board, or discharge offal on the opposite side of the vessel, not be authorized to fish in the Convention area.

The Commission amended the 5-day catch and effort reporting system by requiring that vessels failing to comply with the requirement cease fishing.

The Commission updated the general measure for exploratory fisheries for *Dissostichus* species to include changes to the Research Plan and bycatch limits.

The Commission approved minor technical revisions to management plans for CCAMLR Ecosystem Management Sites at Cape Shirreff and Seal Islands and added a catch limit on the take of *Dissostichus* species by any type of fishing gear during research fishing.

CCAMLR adopted four new resolutions relating to illegal fishing and implementation of the catch documentation scheme for *Dissostichus* species. These were a resolution urging all Contracting Parties to avoid flagging a non-Contracting Party vessel or licensing such a vessel to fish in waters under their fisheries jurisdiction, if that particular vessel has a history of engagement in illegal, unregulated or unreported fishing; urging all Acceding States and non-Contracting Parties not participating in the Catch Documentation Scheme which fish for, or trade in, *Dissostichus* species to implement the Scheme as soon as possible; urging all Contracting Parties where they are unable to provide an authorized Flag State official(s) to monitor a landing for the purposes on validating *Dissostichus* Catch Documents, to discourage their flag vessels authorized to fish for longline fishing for *Dissostichus* species from using ports of Acceding States and non-Contracting Parties which are not implementing the Catch Document Scheme; and agreeing that, on a voluntary basis, subject to their laws and regulations, Flag States participating in the Catch Document

Scheme for *Dissostichus* species should ensure that their flag vessels authorized to fish for or transship *Dissostichus* species on the high seas maintain an operational vessel monitoring system throughout the whole calendar year.

Authority: 16 U.S.C. 2431 *et seq.*

Dated: April 12, 2001.

Clarence Pautzke,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 01–9648 Filed 4–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040901B]

Fisheries off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Notice of Court Order Requiring Actions to Reduce the Incidental Catch of Sea Turtles in the Hawaii Pelagic Longline Fishery

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

ACTION: Notice of Requirements of the Order Modifying Injunction (Order) of the United States District Court for the District of Hawaii issued on March 30, 2001.

SUMMARY: This document announces the terms of the March 30, 2001, Order of the United States District Court for the District of Hawaii. This Order modifies the Court's previous Order of August 4, 2000. The Order restricts the Hawaii-based longline fishery (Hawaii longline fishery) based on the preferred alternative of the Final Environmental Impact Statement (FEIS) governing the Hawaii longline fishery conducted under the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (FMP). The new Hawaii longline fishery management measures are intended to protect and conserve sea turtles.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, Fishery Management Specialist, Pacific Islands Area Office (PIAO), 808–973–2937.

SUPPLEMENTARY INFORMATION: Background information on actions taken to implement earlier orders of the United States District Court for the District of Hawaii in *Center for Marine Conservation* v. *NMFS* was published in the **Federal Register** on December 27, 1999 (64 FR 72290), on March 28, 2000 (65 FR 16346), on June 19, 2000 (65 FR 37917), on August 25, 2000 (65 FR 51992), on November 3, 2000 (65 FR 66186), on February 22, 2001 (66 FR 11120) and on March 19, 2001 (66 FR 15358) and is not repeated here. The other regulations in 50 CFR parts 600 and 660 applicable to this fleet continue to apply. In the near future, NMFS anticipates publishing emergency interim regulations implementing the requirements of the Hawaii District Court's Order of March 30, 2001. This document is published to provide the public with notification of the requirements of the recent Court Order.

On March 30, 2001, Judge David A. Ezra, U.S. District Court for the District of Hawaii (Court), issued an Order in Center for Marine Conservation v. NMFS, in response to NMFS filing an FEIS for the Pelagic Fisheries of the Western Pacific Region by a deadline set in the Court's August 4, 2000, Order. The Court ordered that the following restrictions be imposed on Hawaii longline fishermen:

1. No vessel registered for use with a Hawaii longline limited access permit (''Hawaii longline vessel'') may use longline fishing gear to target swordfish north of the equator. Longline gear must always be deployed such that the deepest point of the main longline between any two floats, i.e., the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface.

2. No Hawaii longline vessel may fish with longline gear from April 1, 2001, through May 31, 2001, in the area bounded on the south by the equator, on the west by 180° W. long., on the east by 145° W. long., and on the north by 15° N. lat.

3. A Hawaii longline vessel that is de-registered from a Hawaii longline limited access permit after March 29, 2001, may not be registered again with a Hawaii longline limited access permit, except during the month of October.

4. If a sea turtle is discovered hooked or entangled on a longline during gear retrieval, retrieval shall cease until the turtle has been removed from the gear or brought onto the vessel's deck.

5. Hooks must be removed from the sea turtles as quickly and carefully as possible. If a hook cannot be removed, the line must be cut as close to the hook as possible.

6. Wire or bolt cutters capable of cutting through a longline hook must be on board each vessel to facilitate cutting of hooks imbedded in sea turtles.

7. The vessel operator shall bring comatose sea turtles on board the vessel and perform resuscitation as prescribed in 50 CFR 223.206(d)(1).

The Order shall remain in effect until further order of the Court.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 13, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–9646 Filed 4–13–01; 3:57 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041201A]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (CPSMT) and Coastal Pelagic Species Advisory Subpanel (CPSAS) will hold a public meeting.

DATES: The meeting is scheduled for Friday, May 11, 2001, starting at 10 a.m. and continuing until business for the day is completed.

ADDRESSES: The meeting will be held in the large conference room at the offices of National Marine Fisheries Service, Southwest Region, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802.

Council address: Pacific Fishery Management Council, 2130 SW., Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Waldeck, Pacific Fishery Management Council, (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review the Pacific mackerel stock assessment and harvest guideline for the 2001–2002 fishery; and coastal pelagic species stock assessment and fishery evaluation document.

Although non-emergency issues not contained in the meeting agenda may come before the CPSMT and/or the CPSAS for discussion, those issues may not be the subject of formal CPSMT or CPSAS action during this meetings. CPSMT and/or CPSAS action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management

Act, provided the public has been notified of the CPSMT's and/or CPSAS'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 Ms. Carolyn Porter at (503) 326–6352 at least five days prior to the meeting date.

Dated: April 13, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–9735 Filed 4–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Draft Environmental Impact Statement for the Preparation of a Special Area Management Plan and associated 404 Permit Actions for the San Juan Creek and western San Mateo Creek Watersheds, Orange County, CA

AGENCY: Department of Defense, Department of the Army, Corps of Engineers, Los Angeles District Regulatory Branch.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: The Corps of Engineers will prepare an EIS on a Special Area Management Plan (SAMP) and associated 404 permit actions in connection with future development, infrastructure maintenance and aquatic resource restoration in the San Juan Creek and western San Mateo Creek watersheds in southern Orange County, California (SAMP study area). The EIS will address impacts of various land development and aquatic resource protection alternatives as set forth below and further identified during the preparation of the SAMP. The SAMP will provide a comprehensive plan for protecting and enhancing aquatic resources while providing for permitting reasonable economic development and public infrastructure in accordance with local land use plans. The SAMP will provide a framework for a long-term programmatic permitting process for projects in the watersheds subject to the Corps of Engineers' permit authority under section 404 of the Clean Water Act regulating the discharge of fill or dredged materials into ''waters of the United States.'' In addition, the SAMP will include a comprehensive reserve program for the protection, restoration, and management of aquatic resources within the study area.

Information in the EIS will be used to complete the SAMP, and to decide to issue or deny a long-term programmatic 404 permit for specific projects, and criteria for permitting future projects that have not yet been identified. The Corps of Engineers will prepare a joint Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) with the California Department of Fish and Game, which must issue other approvals for development in the watersheds that affects watercourses under sections 1601 and 1603 of the State Fish and Game Code.

Public Scoping: The Corps of Engineers invites the participation of affected state, federal, and local agencies and other interested persons in identifying issues of concern that should be addressed in the EIS pursuant to the National Environmental Policy Act (NEPA) and section 404 of the Clean Water Act. Written comments on the scope of the EIS must be submitted to the address below by May 18, 2001. A public scoping meeting to receive input on the scope of the EIS will be conducted on May 8th, 2001 at 6 p.m. at the San Juan Community Center located at 25925 Camino del Avion. This will be a joint scoping meeting to address both the EIS for the SAMP and the EIR for the State Master 1600 Streambed Alteration Agreement.

FOR FURTHER INFORMATION CONTACT: Ms. Fari Tabatabai, Regulatory Branch, CESPL–CO–RS, U.S. Army Corps of Engineers, Los Angeles District, 911 Wilshire Boulevard, Los Angeles, California 90017.

SUPPLEMENTARY INFORMATION:

1.0 Proposed Action

The SAMP study area, San Juan Creek and western San Mateo Creek watershed, is located in southern Orange County. The San Juan Creek watershed encompasses about 176 square miles. There are numerous aquatic resources in the watershed, including creeks, seeps, vernal pools, alkali meadows, freshwater marshes, and riparian wetlands. Western San Mateo Creek watershed is located adjacent to the San Juan Creek watershed and encompasses about 19 square miles. It contains similar environmental conditions. Portions of the study area are developed (i.e. cities of San Juan Capistrano, Mission Viejo, Rancho Santa Margarita, communities of Coto de Caza, Dove Canyon, Trabuco Canyon, Robinson Ranch), while other significant portions of the study area are preserved in open space (Cleveland National Forest, O'Neill Regional Park, Caspers Regional Park). Rancho Mission Viejo is the largest landholding in the SAMP study area and owns the majority of lands in the study area that are not already developed or dedicated as open space.

The SAMP will describe an approach and set of actions to preserve, enhance, and restore aquatic resources, while allowing reasonable and responsible economic activities and development within the study area. The concept of a SAMP was developed by the Corps of Engineers to assist in long-term planning for regulatory actions under Section 404 that involve large areas, complex projects, and valuable aquatic resources.

Key objectives of the SAMP for the San Juan and western San Mateo creeks watersheds include: (1) evaluate the extent and condition of existing aquatic resources; (2) develop a comprehensive management plan and reserve program to preserve and enhance existing aquatic resources including long-term protection of land; and (3) identify and evaluate alternative land development scenarios in the context of the aquatic resource reserve program.

Based on the SAMP, the Corps of Engineers will identify potential areas and/or evaluate proposed activities suitable for coverage using a programmatic permitting process under section 404 of the Clean Water Act. These regulated activities would include residential, commercial, industrial, recreational development; public infrastructure such as roads and utilities; and maintenance of public facilities.

The comprehensive aquatic resource reserve program would accommodate mitigation requirements for contemplated development within the watershed, and other conservation efforts taking place in the watershed under the Natural Community Conservation Program (NCCP). The latter is a comprehensive planning process currently being prepared by the U.S. Fish and Wildlife Service and California Department of Fish and Game, in coordination with local agencies and landowners, to address long-term protection of threatened and endangered species in the Southern Subregion of Orange County. It is anticipated that the nature and location of the aquatic reserve program in the SAMP will be developed in coordination with the NCCP planning efforts.

2.0 Other Involved Agencies

The SAMP will be developed in close coordination with other agencies, including the US Fish and Wildlife Service, California Department of Fish and Game, and US Environmental Protection Agency, National Marine Fisheries Service, Regional Water Quality Control Board, and California Coastal Commission, as necessary. To the extent feasible the SAMP may address water quality issues on a programmatic basis.

The California Department of Fish and Game (Department) will participate in the SAMP process by formulating a Master Streambed Alteration Agreement under section 1600 of the Fish and Game Code for development in the study area that affects drainages subject to the Department's jurisdiction.

The document will be a joint state and federal document. The California Department of Fish and Game will prepare an Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act for the actions described in the SAMP. A separate Notice of Preparation will be prepared and published by the Department. The Corps and the Department will work cooperatively to prepare a joint EIS/EIR document, and to coordinate the public noticing and hearing processes under state and federal laws.

3.0 EIS Alternatives

The Corps of Engineers has identified the following alternatives to be addressed in the EIS. Other alternatives or variations of alternatives may be studied based on input during public scoping and the results of the EIS studies.

1. No Project Alternative—No land development and no SAMP directly impacting ''waters of the United States''. Current land uses, including agriculture operations and resource extraction on Rancho Mission Viejo, would continue indefinitely.

2. No SAMP Alternative—Land development according to existing or future zoning without a SAMP and programmatic 404 permit. Under this alternative, development would proceed in accordance with existing agricultural zoning or future zoning. Projects subject to the requirements of section 404 of the Clean Water Act and Section 1600 of the Fish and Game Code would be permitted on an individual basis. No comprehensive and coordinated approach to aquatic resource protection would occur.

3. SAMP Alternative based the OCP–2000. A watershed-wide aquatic resource reserve program would be developed to preserve, enhance, and restore aquatic resources. Land uses projected in Orange County Projections–2000 for Rancho Mission Viejo would be implemented. A programmatic section 404 permit would be issued for specific projects and permitting criteria for future projects would be established pursuant to the requirements of the section 404 of the Clean Water Act.

4. SAMP Alternative based on Other Land Use Scenarios. A watershed-wide aquatic resource reserve program would be developed to preserve, enhance, and restore aquatic resources. One or more land use development plan would be developed under this alternative consistent with the goals and objectives of the SAMP. Programmatic section 404 permits would be issued for specific projects, and permitting criteria for future projects would be established.

The EIS would also address methods and institutional arrangements for aquatic resource reserve management.

4.0 Key Environmental Issues

The EIS will address impacts associated with future land development in the watersheds and actions to protect aquatic resources, as identified in the SAMP. They key environmental impacts to be addressed in the EIS are listed below:

- *Aquatic resources*—potential effects of proposed land use alternatives on the functional integrity and extent of aquatic resources due to altered biological, hydrological, and water quality conditions in the study area. Indirect impacts of land development and human activities in close proximity to aquatic resources will also be addressed.
- *Water quality*—potential effects on the quality of surface and ground water due to construction activities in the watersheds, and due to urban stormwater runoff associated with future development.
- *Threatened and endangered species*—potential adverse impacts on listed aquatic dependent species, including, but not limited to, arroyo toad, San Diego fairy shrimp, and least Bell's vireo. A Section 7 endangered species consultation will be conducted with the US Fish and Wildlife Service for potential impacts to listed species and designated critical habitat for the least Bell's vireo and arroyo toad. Potential impacts on the endangered California gnatcatcher habitat will be addressed.
- *Cultural Resources*—potential impacts on archaeological, ethnographic, paleontologic, and historic resources. The Corps of Engineers will comply with the consultation requirements under Section 106 of the National Historic Preservation Act.

5.0 Schedule

A Draft EIS is expected to be issued for public review in Spring 2002.

Dated: April 9, 2001.

John P. Carroll,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 01–9659 Filed 4–18–01; 8:45 am]

BILLING CODE 3710–KF–M

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Uniformed Services University of the Health Sciences

TIME AND DATE: 8 a.m. to 4 p.m., May 18, 2001

PLACE: Uniformed Services University of the Health Sciences, Board of Regents Conference Room (D3001), 4301 Jones Bridge Road, Bethesda, MD 20814–4799

STATUS: Open—under ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(3))

MATTERS TO BE CONSIDERED:

8:30 a.m. Meeting—Board of Regents

(1) Approval of Minutes—February 6, 2001
(2) Faculty Matters
(3) Departmental Reports
(4) Financial Report
(5) Report—President, USUHS
(6) Report—Dean, School of Medicine
(7) Report—Dean, Graduate School of Nursing
(8) Comments—Chairman, Board of Regents
(9) New Business

CONTACT PERSON FOR MORE INFORMATION: Mr. Bobby D. Anderson, Executive Secretary, Board of Regents, (301) 295–3116.

Dated: April 16, 2001.

Linda Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–9826 Filed 4–17–01; 10:33 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 April 25, 2001. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before June 18, 2001.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

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, Information Management Group, 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: April 13, 2001.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Native American School Renovation and Repair Grant Application.

Abstract: The Department will use the information collected through this application to award grants to approximately 150 local educational agenices that serve high proportions of children living on Indian lands. The information will also be used to describe to the Congress and the public how these grants are being used.

Additional Information: The recently enacted Department of Education Appropriations Act for Fiscal Year 2001 contains authorization for school renovation and repair grants to local educational agencies (LEAs) that are eligible for Impact Aid Basic Support Payments and whose enrollments are comprised of at least 50 percent children who live on Indian lands. The Department must award grantees in time to undertake their school renovation and repair projects in July and August. Failure to make awards on this schedule will likely cause substantial harm to many eligible LEAs since they may be forced to delay their school renovation projects until the following year.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 150. Burden Hours: 300.

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. 01–9671 Filed 4–18–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 18, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 13, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Report of Financial Need and Certification for the Jacob K. Javits Fellowship Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden: Responses: 100. Burden Hours: 400.

Abstract: The Department of Education (ED) uses this form to collect financial need information of students who have Javits fellowships and certification of academic progress of Javits fellows from institutions where Javits fellows attend. ED uses the data to calculate fellowship amounts for individuals and the total amount of program funds to be sent to the institution.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–9672 Filed 4–18–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 18, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 13, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.

Title: Final Performance Report for Grants under Title III—Institutional Aid Programs.

Frequency: Once after the expiration date.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden: Responses: 1. Burden Hours: 2,000.

Abstract: This data collection is needed for program evaluation and to respond to Government Performance and Results Act (GPRA) requirements. Information obtained from this collection will be used to support budget submissions to OMB; respond to inquiries from the Congress, higher education interest groups and the general public. Respondents are colleges, universities and eligible professional organizations. This report will be used as a grantee closes down its activities after five years.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–9673 Filed 4–18–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 18, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader,

Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 13, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.

Title: Survey of Parents of Magnet Schools Assistance Program (MSAP) Students and Comparison Students.

Frequency: One time only.

Affected Public: Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 1,150. Burden Hours: 1,035.

Abstract: This package is to request clearance for a Parent Survey associated with the evaluation of the MSAP (MSAP Evaluation has already been cleared under OMB 1875–0174). The purpose of the survey is to provide insights to ED and Congress as to the extent to which parents are satisfied with the choices offered by MSAP-funded schools. The survey has been coordinated with a similar Parent Survey for the charter school evaluation.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at (202) 708–5359 or via her internet address Jackie.Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–9674 Filed 4–18–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.235B]

Systems-Change Projects to Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001

Purpose of Program: To enhance collaboration in existing systems, including the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA) projects administered by the Social Security Administration, and to increase competitive employment opportunities for individuals with disabilities who are participants in public support programs funded by Federal, State, and local agencies.

For FY 2001 the competition for new awards focuses on projects designed to meet the priorities we describe in the PRIORITIES section of this application notice.

Eligible Applicants: A consortium of, at a minimum, the State vocational rehabilitation agency, the State welfare agency, a State educational agency, the State agency responsible for administering the Medicaid program, and an agency administering an employment or employment training program supported by the U.S. Department of Labor. Additional entities (e.g., public and private non-profit organizations or Indian tribes) also may be included as part of the consortium. An agreement between the members of the consortium must be submitted as part of the application.

Applications Available: April 23, 2001.

Deadline for Transmittal of Applications: July 6, 2001.

Deadline for Intergovernmental Review: September 4, 2001.

Estimated Available Funds: $2,000,000.

Estimated Range of Awards: $450,000—$500,000.

Estimated Average Size of Awards: $475,000.

Estimated Number of Awards: 4–5.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. It is suggested that you limit Part III to 35 pages.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, and 99; and (b). The regulations for this program in 34 CFR part 373.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Priorities: This competition focuses on projects designed to meet the absolute priority in the notice of final priority and definitions for this program, published in the **Federal Register** on July 8, 1998 (63 FR 37016), and the competitive preference priority in the notice of final competitive preference for Special Demonstration Programs, published in the **Federal Register** on November 22, 2000 (65 FR 70408).

The purpose of the absolute priority is to establish five-year model demonstration projects that stimulate and advance systems change in order to expand competitive employment outcomes for individuals with mental or physical disabilities, or both, who are participants in Federal, State, and local public support programs (e.g., TANF, SSI and SSDI, including TWWIIA, Medicaid, Medicare, subsidized housing, and food stamps, etc.).

Absolute Priority—Systems-Change Projects to Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support

Under 34 CFR 75.105(c)(3) and section 303(b) of the Rehabilitation Act of 1973, as amended (the Act) (29 U.S.C. 762(b)(3)), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

A. General Requirements for Applicants

Applicants under this priority shall satisfy the following requirements:

(1) Applicants shall form a consortium of, at a minimum, the State vocational rehabilitation agency, the State welfare agency, the State educational agency, the State agency responsible for administering the Medicaid program, and an agency administering an employment or employment training program supported by the U.S. Department of Labor. Additional entities (e.g., public and private non-profit organizations) that could effectively assist in removing barriers to employment for individuals with disabilities also may be included as part of the consortium.

(2) The members of the consortium shall either designate one of their members to apply for the grant or establish a separate, eligible legal entity to apply for the grant. The designated applicant shall serve as the grantee and be legally responsible for the use of all grant funds, overall fiscal and programmatic oversight of the project, and for ensuring that the project is carried out by consortium members in accordance with Federal requirements.

(3) Consortium members shall be substantially involved in the development of the application. To the extent possible, consortiums also shall involve consumers in the development of the application.

(4) The members of the consortium shall enter into an agreement that details the activities that each member plans to perform and that binds each member to the statements and assurances included in the application. Each member is legally responsible for carrying out the activities it agrees to perform and for using the funds that it receives under the agreement in accordance with Federal requirements that apply to the grant. The agreement must be submitted as part of the application.

(5) Consortiums shall establish a Consumer Advisory Board consisting of individuals with disabilities and, as appropriate, their representatives that will assist in the development, implementation, and evaluation of barrier-removal strategies.

(6) The application submitted under this priority also must identify the specific locality or region that would be served by the project.

B. Project Objectives

Projects supported under this priority must—

(1) Identify systemic barriers, including State or local agency policies, practices, procedures, or rules that inhibit individuals with disabilities who are participants in public support programs from becoming competitively employed.

(2) Develop and implement replicable strategies to remove identified barriers, including, at a minimum, strategies for—

(a) Establishing effective collaborative working relationships among project consortium members and their partners as described in paragraph (C)(1) of this priority (e.g., providing interagency staff training and technical assistance on program requirements and services or collaboratively using labor market and job vacancy information);

(b) Establishing coordinated service delivery systems (e.g., common intake and referral procedures, customer databases, and resource information) and developing innovative services and service approaches that address service gaps (e.g., developing employee and employer support networks);

(c) Improving access to health insurance for individuals with disabilities who become employed;

(d) Increasing the use of existing resources by State and local agencies (e.g., Medicaid waivers, Home Community Based Services waivers, Job Training Partnership Act income exemptions, and work incentive provisions such as Plan for Achieving Self Support);

(3) Design and implement an internal evaluation plan for which—

(a) The methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the project;

(b) The methods of evaluation provide for examining the effectiveness of project implementation strategies;

(c) The methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible;

(d) The methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes; and

(e) The evaluation will provide guidance about effective strategies suitable for replication or testing in other settings; and

(4) Disseminate information on effective systems-change approaches developed under these projects to Federal, State, and local stakeholders and facilitate the use of systems-change models in other geographic areas. As examples, consortiums may make presentations before national, State, or local conferences, consult with and provide technical assistance to other States or localities, develop Internet web sites, and distribute project publications.

C. Project Requirements

In carrying out the priority, the projects must—

(1) Develop partnership agreements, as described under DEFINITIONS, with the local district offices of the Social Security Administration; the State agency or agencies responsible for mental retardation, developmental disabilities, and mental health services; existing transportation or paratransit service providers; and appropriate public and private sector employers. Partnerships also may be formed with other appropriate entities identified by the consortium, including but not limited to, Centers for Independent Living, consumer advocacy organizations, economic development councils, Private Industry Councils, Governor's committees on the employment of persons with disabilities, developmental disabilities councils, mental health centers, community rehabilitation programs, Indian Tribes, labor unions, and community-based and other non-profit employment and training organizations funded by the U.S. Department of Labor;

(2) Make timely, formal requests for Medicaid waivers if necessary for projects to be able to implement developed strategies;

(3) Implement, in a timely manner, the strategies developed by the project to expand employment outcomes for individuals with mental or physical disabilities, or both;

(4) Participate, as appropriate, in meetings of a Federal Interagency Employment Initiative Workgroup and inform workgroup members of project activities; and

(5) Participate in, and provide data for, an external evaluation of the systems-change projects as directed by the Commissioner of the Rehabilitation Services Administration. The evaluation would examine— (a) The effect of specific innovative systems-change approaches and strategies on State or local agency policies, practices, or rules affecting the employment of individuals with disabilities; (b) The effect of specific innovative systems-change approaches and strategies on increasing the number of individuals with disabilities who obtain competitive employment, including job retention, promotion, and satisfaction, and wage growth; and (c) The cost effectiveness of employment supports and services implemented by the project.

Definitions

Competitive employment, as defined in 34 CFR 361.5(b)(10), means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

Consortium means a group of eligible parties formed by the applicant seeking a Federal award under this priority. Members of the consortium shall enter into an agreement and carry out their responsibilities consistent with the requirements in paragraph (A) of the priority. Members of the consortium shall also ensure that project partners carry out their agreed-upon activities.

Disability with respect to an individual means a physical or mental impairment that substantially limits one or more of the major life activities of that individual, having a record of such an impairment, or being regarded as having such an impairment.

Locality means specific geographical areas within a State or States.

Partner means an entity with which the consortium has entered into an agreement to carry out specific activities, goals, and objectives of the project.

Partnership agreement means a written arrangement between a consortium and its partners to carry out specific activities related to the project.

Public Support means Federal, State, and local public programs that provide resources or services to individuals with disabilities. These programs include, but are not limited to, Temporary Aid to Needy Families (TANF), Supplemental Security Income (SSI), Social Security Disability Income (SSDI), Medicaid (including Medicaid waiver programs), Medicare, subsidized housing, and food stamps.

Region means two or more States participating in the project.

Competitive Preference Priority: Within the absolute preference priority for this competition for FY 2001, under 34 CFR 75.105(c)(2)(i) we add a competitive preference to applications that are otherwise eligible for funding under this program.

The maximum score under the selection criteria for this program is 100 points; however, we will also use the following competitive preference so that up to an additional 10 points may be earned by an applicant for a total possible score of 110 points.

Up to 10 points may be earned based on the extent to which an application includes effective strategies for employing and advancing in employment qualified individuals with disabilities as project employees in projects awarded under this program. In determining the effectiveness of those strategies, we will consider the applicant's prior success, as described in the application, in employing and advancing in employment qualified individuals with disabilities.

Therefore, within this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this program. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Selection Criteria: In evaluating an application for a new grant under this competition, we use selection criteria chosen from the general selection criteria in 34 CFR 75.210 of EDGAR. The selection criteria to be used for this competition will be provided in the application package for this competition.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: 301–470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: http://www.ed.gov/pubs/edpubs.html.

Or you may contact ED Pubs at its e-mail address: edpubs@inet.ed.gov.

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA No. 84.235B.

Individuals with disabilities may obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8351. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Services (FIRS) at 1–800–877–8339. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

For Further Information Contact: Sonja T. Turner, Competition Manager, U.S. Department of Education, 400 Maryland Avenue, SW., room 3322, Switzer Building, Washington, DC. 20202–2650. Telephone: (202) 205–9396. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this notice in an alternative format on request to the contact person listed in the preceding paragraph.

Please note: Applications are to be requested only from ED Pubs as listed in the FOR APPLICATIONS CONTACT section.

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

Program Authority: 29 U.S.C. 773(b).

Dated: April 13, 2001.

Francis V. Corrigan,

Deputy Director, National Institute on Disability and Rehabilitation Research.

[FR Doc. 01–9655 Filed 4–18–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

National Energy Technology Laboratory; Notice of Availability of a Financial Assistance Solicitation

AGENCY: National energy technology laboratory (NETL), Department of Energy (DOE).

ACTION: Notice of availability of a financial assistance solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Solicitation No. DE–PS26–01NT40864 entitled Advanced University Reciprocating Engine Program. The DOE/NETL is seeking applications on behalf of the Office of Power Technologies in DOE's Office of Energy Efficiency and Renewable Energy, for support of projects that are consistent with the goals of the Advanced Natural Gas Reciprocating Engine Program. This solicitation, restricted to United States (US) universities and colleges, requests applications that will have a significant

impact in achieving the program goals stated below. In order to attain these goals, innovative and novel concepts need to be developed and current obstacles need to be overcome.

DATES: The solicitation will be available on the DOE/NETL's Internet address at http://www.netl.doe.gov/business on or about April 13, 2001. All requests for explanation or interpretation of any part of the solicitation shall be submitted in writing and must be received by the Contract Specialist via E-mail or in writing not later than 4 p.m. local prevailing time on May 4, 2001. The Government reserves the right not to respond to questions submitted after this date, nor to respond to questions submitted by telephone or in person at any time.

FOR FURTHER INFORMATION CONTACT: Debra A. Duncan, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 10940, MS 921–107, E-mail Address: duncan@netl.doe.gov, Telephone Number: 412–386–6137.

SUPPLEMENTARY INFORMATION: The DOE supports the development of promising advanced power technologies that will improve energy efficiency, meet or exceed emissions requirements, enhance durability, and lower the costs of installation and operation.

The DOE is encouraging greater focus on a portfolio of advanced distributed energy systems. Current technology development efforts include industrial turbines, microturbines, reciprocating engines, and fuel cell technologies for use in industrial, commercial, institutional and residential applications. This solicitation focuses on development of technologies that will enhance the performance of advanced natural gas reciprocating engines. Previous solicitations have already focused on reciprocating engine research restricted to manufacturers and national laboratories. US manufacturers and suppliers of reciprocating engines and the Federal government are partnering to develop the next generation of stationary natural gas internal combustion engines. These advanced systems will provide significant benefits to the nation and will position domestic engine manufacturers to better compete in what is becoming a more global market with significant opportunities in domestic power generation markets and emerging international markets. The Advanced Natural Gas Reciprocating Engine Program goals are:

1. Energy Efficiency: 50% electrical efficiency. Current spark-ignition natural gas engines range in efficiency from 34–38%. Application of high temperature materials, engine sensors and controls, improved combustion practices, and other advances may be able to attain efficiencies of 50%.

2. Environmental Emissions: NO_X target of 0.1 grams per horsepower-hour. Currently, the best domestic emission levels are 1.0 grams per horsepower-hour. In order to reduce NO_X emissions by an order of magnitude advances in combustion technology, sensors and controls, and emission reduction systems are critical to minimize environmental impacts.

3. Cost: Operating and maintenance 10% below today's costs for modern engines. Attaining this goal will result in $50 million savings to the nation between 2005—2010.

To achieve the project objectives, DOE/NETL through the Office of Power Technologies' Advanced Natural Gas Reciprocating Engine Program, is requesting applications under the following two (2) topic areas:

Technical Topic No. 1 Ignition System Improvements

Background/Application: Ignition systems with the best available technology today often do not meet customer increasing expectations for longer life and lower maintenance costs. Technologies now available are the result of high speed automotive engine applications. These technologies are not necessarily designed for the load and pressure effects that current medium speed engines require. The need for better ignition systems designs will increase significantly as compression ratios are driven higher to achieve higher engine efficiency, and as engines are operated leaner in order to achieved reduce levels of NO_X emissions.

Technical and Commercial Barriers: Technical barriers include limited research on high energy, long life ignition systems accompanied by low volume production capability of the supplier base for these types of systems.

Technology Breakthrough(s) Needed: Fundamental research is needed to understand ignition system demands for medium speed (1200–1800 revolutions per minute) natural gas engines, meeting customer expectations for life and maintenance costs. Also, research is needed at understanding ignition system dynamics in these engines, especially at the point of ignition during the beginning of the power cycle. As future designs will require increased cylinder pressures and rotational speeds, this research will be especially important as a model for continued developments in ignition systems.

Technical Topic No. 2 Parasitic Loss Reduction

Background/Application: Currently, high-speed engines are believed to have lower frictional losses than medium speed (1200–1800 revolutions per minute) larger bore natural gas engines. Very little known work has been done to lower these losses in medium speed engines. Improvements in this area can be translated directly into lower fuel consumption without suffering a corresponding increase in NO_X emissions.

Technical and Commercial Barriers: Due to the relatively low volumes of these engines, focus has mainly been placed on high-speed engines. Analytical models to do this work need to be refined.

Technology Breakthrough(s) Needed: Research is needed to address current medium speed large bore natural gas parasitic losses. Initial focus could be on the piston, piston ring, and cylinder liner interface, although all areas of the engine system could be investigated. Lubricity, materials, clearances, and temperatures are areas of concern as well. Finally, attention should be given to maintaining the traditional long lives that these engines are expected to provide. Any proposed research concerning lubrication should focus on currently available oils or oil additives.

Pursuant to 10 CFR 600.6(b) eligibility for award is restricted to US universities and colleges. Only universities, colleges, or university-affiliated research institutes located in the US and its territories, including the Commonwealth of Puerto Rico and the Virgin Islands, may submit applications for consideration under this Program Solicitation. Submissions from university-affiliated research institutes must be made through the university and the university, *not* the university-affiliated research institute, will be the award recipient.

DOE anticipates multiple cooperative agreement awards resulting from this solicitation. In accordance with 10 CFR 600.30, the DOE has determined that a minimum cost share of 20% will be required.

Telephone requests, written requests, E-mail requests, or facsimile requests for a copy of the solicitation package will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. The actual solicitation document will allow for requests for explanation and/or interpretation.

Issued in Pittsburgh, PA on April 11, 2001.

Raymond R. Jarr,

Acting Deputy Director, Acquisition and Assistance Division.

[FR Doc. 01–9703 Filed 4–18–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC01–574–000, FERC–574]

Proposed Information Collection and Request for Comments

April 13, 2001

AGENCY: Federal Energy Regulatory Commission DOE.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Public Law 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before June 18, 2001.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–2425, and by e-mail at *mike.miller@ferc.fed.us.*

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–574 ''Gas Pipeline Certificates: Hinshaw Exemption'' (OMB No. 1902–0116) is used by the Commission to implement the statutory provisions of sections 1(c), 4 and 7 of the Natural Gas Act (NGA)(P.L. 75–688)(15 U.S.C. 717–717w). Natural Gas Pipeline companies file applications with the Commission furnishing information in order for a determination to be made as to whether the applicant qualifies for an exemption from the provisions of the Natural Gas Act (Section 1(c)). If the exemption is granted, the pipeline is not required to file certificate applications, rate schedules, or any other applications or forms otherwise prescribed by the Commission.

The exemption applies to the companies engaged in the transportation or sale for resale of natural gas in interstate commerce if: (a) It receives gas at or within the boundaries of the state from another person; (b) such gas is transported, sold, consumed within such state; and (c) the rates, service and facilities of such company are subject to regulation by a State Commission. The date required to be filed by pipeline companies for an exemption is specified by 18 Code of Federal Regulations (CFR) Part 152.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collections of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
(1)	(2)	(3)	(1)x(2)x(3)
1	1	245	245 hours.

The estimated total cost of respondents is $13,786 (245 hours divided by 2.080 hours per year employee times $117,041 per year per average employee=$13,786). The cost per respondent is $13,786.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost of respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, 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 of 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, *e.g.,* permitting electronic submission of responses.

David P. Boergers,

Secretary.

[FR Doc. 01–9705 Filed 4–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1579–001]

California Independent System Operator Corporation; Notice of Filing

April 11, 2001.

Take notice that on March 29, 2001, the California Independent System Operator Corporation (ISO), tendered for filing an errata filing concerning the ISO's March 20, 2001 filing in the above-referenced docket. The errata filing provides a tariff sheet which deletes a section number inadvertently included in the same numbered sheet in the March 20, 2001 filing.

The ISO states that this filing has been served upon the Public Utilities Commission of California, the California Energy Commission, the California Electricity Oversight Board, and upon all parties with effective Scheduling Coordinator Service Agreements under the ISO Tariff.

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 April 19, 2001. 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). Comments, protests and interventions 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. 01–9657 Filed 4–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–80–000]

East Tennessee Natural Gas Company; Notice of Route and Site Review

April 13, 2001.

On April 25 through 27, 2001, the staff of the Office of Energy Projects (OEP) will conduct a route and site review of the proposed Murray Project. The Murray Project facilities are proposed for construction by East Tennessee Natural Gas Company (ETNG). The proposed pipeline routes and other facilities, located in Marshall, Bedford, Moore, Franklin, Grundy, Marion, Sequatchie, Hamilton, and McMinn Counties, Tennessee, and Catoosa, Whitfield, and Murray Counties, Georgia, will be reviewed by helicopter on April 25, 2001, and by automobile on April 26 and 27, 2001. Representatives of ETNG will accompany the OEP staff.

Anyone interested in attending the route and site review or obtaining further information may contact the Commission's Office of External Affairs at (202) 208–1088. Attendees must provide their own transportation.

David P. Boergers,

Secretary.

[FR Doc. 01–9707 Filed 4–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES01–29–000, et al.]

Oregon Trail Electric Consumers Cooperative, Inc., et al.; Electric Rate and Corporate Regulation Filings

April 12, 2001.

Take notice that the following filings have been made with the Commission:

1. Oregon Trail Electric Consumers Cooperative, Inc.

[Docket No. ES01–29–000]

Take notice that on April 10, 2001, Oregon Trail Electric Consumers Cooperative, Inc. (Oregon Trail) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to (1) issue long-term notes in an amount not to exceed $14 million and (2) enter into and borrow funds under a two-year, $5 million line-of-credit agreement.

Oregon Trail also requests a waiver of the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment date: May 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. FPL Group, Inc., Entergy Corporation

[Docket No. EC01–33–000; Docket No. ER01–543–000]

Take notice that on April 2, 2001, FPL Group, Inc. and Entergy Corporation tendered for filing with the Federal Energy Regulatory Commission (Commission) a notice of withdrawal of their November 30, 2000 filing of (1) an application (Joint Application) under section 203 of the Federal Power Act requesting all authorization necessary to consummate their proposed merger and (2) a System Integration agreement (SIA) to take effect upon consummation of the merger.

Comment date: April 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. American Transmission Company LLC

[Docket No. EC01–87–000]

Take notice that on April 10, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an application under section 203 of the Federal Power Act for authorization for ATCLLC to acquire ownership and operational control over certain transmission facilities of 11 municipal and cooperative utilities in Wisconsin and Michigan. ATCLLC intends to acquire these facilities and give the transferring entities an ownership interest in ATCLLC in exchange.

A copy of the filing has been served on the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: May 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas and Electric Company

[Docket No. ER01–833–000]

Take notice that on April 9 , 2001, Pacific Gas and Electric Company (PG&E) tendered for filing an additional Request for Deferral of Consideration of the unexecuted Wholesale Distribution Tariff Service Agreement and Interconnection Agreement between Pacific Gas and Electric Company and Modesto Irrigation District (MID) filed in FERC Docket No. ER01–833–000 on December 29, 2000. PG&E and Modesto are still discussing the final terms of these Agreements and PG&E therefore is notifying the Commission that the executed WDT and IA will not be filed by April 14, 2001, the first requested deferral date.

PG&E requests that the Commission defer consideration of the WDT Service Agreement and IA filed in ER01–833–000 to June 14, 2001 or 60 days beyond the first request for Deferral in order that the parties may finalize the Agreements. Copies of this filing have been served upon MID, the California Independent System Operator Corporation, and the California Public Utilities Commission.

Comment date: April 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Puget Sound Energy, Inc.

[Docket No. ER01–934–001]

Take notice that on April 9, 2001, Puget Sound Energy, Inc., tendered for filing a reformatted executed Confirmation of Special Storage Arrangement with The City of Seattle,

acting by and through its Lighting Department (SCL). A copy of the filing was served upon SCL.

Comment date: April 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Puget Sound Energy, Inc.

[Docket No. ER01–1009–001]

Take notice that on April 9, 2001, Puget Sound Energy, Inc., tendered for filing a reformatted executed Special Storage Agreement with Avista Corporation (AVISTA). A copy of the filing was served upon AVISTA.

Comment date: April 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Northern Lights Power Company

[Docket No. ER01–1414–001]

Take notice that on April 9, 2001, Northern Lights Power Company (NLPC) tendered for filing an amended petition for acceptance of NLPC Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

This filing amends and provides answers to required information deficiencies found in the original filing.

Comment date: April 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Solar Turbines Incorporated and STI Capital Company

[Docket No. ER01–1703–000]

Take notice that on March 30, 2001, Solar Turbines Incorporated (Solar) and STI Capital Company (STI), tendered for filing supplementing their Application for authorization to transfer jurisdictional assets pursuant to Sections 203 and 205 of the Federal Power Act and Part 33 of the Commission's Regulations.

The Application seeks authorization for Solar to transfer to STI any jurisdictional interconnection facilities, Solar's market based rate schedule and any wholesale power agreements executed pursuant to that rate schedule. The supplement consists entirely of a copy of the Purchase and Transfer Agreement between Solar and STI. Confidential treatment has been requested for the supplemental information.

Comment date: April 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Public Service Company of New Mexico

[Docket No. ER01–1731–000]

Take notice that on April 9, 2001, Public Service Company of New Mexico (PNM) tendered for filing two executed service agreements with Axia Energy, L.P. (Axia), under the terms of PNM's Open Access Transmission Tariff. One agreement is for short-term firm point-to-point transmission service and one is for non-firm point-to-point transmission service.

Both agreements are dated March 26, 2001. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to Axia and to the New Mexico Public Regulation Commission.

Comment date: April 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Atlantic City Electric Company and Delmarva Power & Light Company

[Docket No. ER01–1753–000]

Take notice that on April 6, 2001, Conectiv, on behalf of its subsidiaries Atlantic City Electric Company (Atlantic) and Delmarva Power & Light Company (Delmarva), tendered for filing the following notices of termination for the following service agreements under Atlantic's and Delmarva's market-based rate tariffs, FERC Electric Tariff, Third Revised Volume No. 1 and FERC Electric Tariff, Third Revised Volume No. 14, respectively:

	Service agreement No.
Delmarva Power & Light Company:	
AYP Energy, Inc	48
Allegheny Power System	18
Ameren Services Company	94
American Energy Trading, Inc	36
Aquila Energy	9
Central Hudson Enterprises Corporation	97
Central Vermont Public Service Corporation	95
Cinergy Capital & Trading, Inc	80
Citizens Power Sales LLC	39
CNG Power Services Corporation	33
Conoco, Inc., formerly known as Dupont Power Marketing, Inc	1
Constellation Power Source, Inc	96
Continental Energy Services, L.L.C	67
Edison Source	47
Commonwealth Energy Corporation d/b/a ElectricAmerica	99
Engage Energy, formerly known as Coastal Electric Services Company	19
Englehard Power Marketing, Inc	23
Entergy Power Marketing Corporation	55
Illinois Power Company	35
LG&E Power Marketing, Inc	39
Long Island Lighting Company d/b/a LIPA through its agent Keyspan Energy Trading Services, L.L.C	87
Merchant Energy Group of the Americas	76
MidCon Power Services Corporation	51
North American Energy Conservation, Inc	42
NESI Power Marketing, Inc	61
Niagara Mohawk Power Company	13
Northern/AES Energy, LLC; Minnesota Power	78
NYSEG Solutions, Inc	84
Orange and Rockland Utilities, Inc	91
PacifiCorp Power Marketing, Inc	46
Reliant Energy Services, Inc., formerly known as NorAmEnergy Management, Inc	59
South Carolina Electric & Gas Company	34
Stand Energy Corporation	64
Strategic Power Management, Inc	89
TransCanada Power Corporation	3
Atlantic City Electric Company:	
Aquila Energy	18
Citizens Power Sales L.L.C	22
Engage Energy, formerly known as Coastal Energy Services Company	11
Entergy Power Marketing Corp	60
GPU Energy	58
Merchant Energy Group of the Americas	75
NP Energy	67
Reliant Energy Services, Inc. formerly known as NorAm Energy Management, Inc	65
Sempra Energy formerly known as AIG Trading Corporation	12
Virginia Electric and Power Company	8

Conectiv requests that all of the notices of termination become effective on June 5, 2001, sixty days after the date of this filing.

Conectiv has served this filing on all of the Atlantic and Delmarva customers under the service agreements to be terminated through this filing, the Maryland Public Service Commission, Delaware Public Service Commission, Virginia State Corporation Commission and New Jersey Board of Public Utilities.

Comment date: April 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Altorfer Inc.

[Docket No. ER01–1758–000]

Take notice that on April 9, 2001, Altorfer Inc. (Altorfer), of Cedar Rapids, Iowa, tendered for filing a Power Purchase Agreement with Central Illinois Light Company, under which Altorfer would sell energy to CILCO at market-based rates.

Altorfer requested an effective date of June 1, 2001.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: April 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Kansas Gas and Electric Company

[Docket No. ER01–1759–000]

Take notice that on April 9, 2001, Kansas Gas and Electric Company (KGE) tendered for filing an original Electric Interconnection Agreement and an official cancellation of its FERC No. 162 Electric Service Agreement between KGE and the City of Oxford, Kansas (City). KGE requests an effective date of April 1, 2001 for these rate schedule changes.

Notice of the filing has been served upon the City and the Kansas Corporation Commission.

Comment date: April 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Haleywest L.L.C.

[Docket No. ER01–1760–000]

Take notice that on April 9, 2001, Haleywest L.L.C. (Haleywest), tendered for filing an application to shorten time for notice and comments, for waivers and blanket approvals under various regulations of the Commission, and for an order accepting its FERC Electric Rate Schedule No. 1. Haleywest proposes that its Rate Schedule No. 1 become effective upon commencement of service of the Haleywest power plant (the Plant), a generation project currently being developed by Haleywest in the State of Idaho. The Plant will commence the sale of power on April 20, 2001.

Haleywest intends to sell energy and capacity from the Plant at market-based rates, and on such terms and conditions to be mutually agreed upon with the purchasing party. Copies of the filing were served on Avista Utilities, Inc., and the Idaho Public Utilities Commission.

Comment date: April 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Tampa Electric Company

[Docket No. ER01–1761–000]

Take notice that on April 9, 2001, Tampa Electric Company (Tampa Electric) tendered for filing a Notice of Termination of a service agreement with Tampa Electric, in its wholesale merchant function, under Tampa Electric's open access transmission tariff.

Tampa Electric proposes that the termination be made effective on March 16, 2001, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on Tampa Electric as wholesale merchant and the Florida Public Service Commission.

Comment date: April 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. PPL Electric Utilities Corporation

[Docket No. ER01–1762–000]

Take notice that on April 9, 2001, PPL Electric Utilities Corporation (PPL Electric Utilities) tendered for filing an Interconnection Agreement between PPL Electric Utilities and RR Donnelley & Sons Company.

Comment date: April 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Duke Electric Transmission

[Docket No. ER01–1763–000]

Take notice that on April 9, 2001, Duke Electric Transmission, tendered for filing an amendment to the Interconnection and Operating Agreement between Duke Electric Transmission and Broad River Energy LLC. in the above-captioned docket.

Comment date: April 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. PEI Power II, LLC

[Docket No. ER01–1764–000]

Take notice that on April 9, 2001, PEI Power II, LLC tendered for filing an application seeking authorization, on an expedited basis, to make sales at market-based rates and for certain waivers and blanket authorizations.

Comment date: April 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Illinois Power Company

[Docket No. ER01–1765–000]

Take notice that on April 9, 2001, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 65251–2200, tendered for filing a Firm Long-Term Point-to-Point Transmission Service Agreement entered into with Dynegy Power Marketing, Inc. (DPM) pursuant to Illinois Power's Open Access Transmission Tariff.

Illinois Power requests an effective date of January 1, 2002 for the Agreements. Illinois Power states that a copy of this filing has been sent to DPM.

Comment date: April 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Southern Company Services, Inc.

[Docket No. ER01–1772–000 ER01–602–003]

Take notice that on April 6, 2001, Southern Company Services, Inc. (SCS) as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively, Southern Companies), tendered for filing rate schedule sheets compliant with Commission Order No. 614 for certain Southern Operating Companies Rate Schedules. The Rate Schedules concern interchange service contracts between Southern Companies, SCS and Enron Power Marketing, Inc. (FERC No. 80); Sonat Power Marketing Inc. (FERC No. 81); Heartland Energy Services, Inc. (FERC No. 83); LG&E Power Marketing, Inc. (FERC No. 84); Catex Vitol, L.L.C. (FERC No. 85); PECO Energy Company (FERC No. 86); NorAm Energy Services, Inc. (FERC No. 87); Valero Power Services Company (FERC No. 89); Entergy Power, Inc. (FERC No. 91); Delhi Energy Services, Inc. (FERC No. 92); Citizens Lehman Power Sales (FERC No. 94); Eastex Power Marketing, Inc. (FERC No. 95); Louis Dreyfus Electric Power Inc. (FERC No. 96); Stand Energy Corporation (FERC No. 98); and Electric Clearinghouse, Inc. (FERC No. 99).

Comment date: April 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Southern Electric Generation Co.

[Docket No. ER01–1773–000 ER01–602–004]

Take notice that on April 6, Southern Electric Generation Company tendered for filing original tariff sheets compliant with the formatting requirements of Commission Order No. 614.

Comment date: April 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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). Comments, protests, and interventions 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. 01–9656 Filed 4–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–145–000]

Otay Mesa Generating Company, LLC; Notice of Application

April 13, 2001.

Take notice that on April 6, 2001, Otay Mesa Generating Company, LLC (Otay Mesa), 7500 Old Georgetown Road, Suite 1300, Bethesda, Maryland 20814–6161, pursuant to section 3 of the Natural Gas Act (NGA) and Part 153 of the Commission's regulations, filed an application in Docket No. CP01–145–000, for a Presidential Permit and for authority to site, construct, operate, and maintain natural gas facilities, consisting of approximately 340 feet of 16-inch diameter pipeline, at the border of the United States and Mexico in San Diego County, California. The facilities will be used to import up to 110 MMcf per day of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). The name, address, and telephone/fax numbers of the applicant's representative, to whom correspondence and communications concerning this application should be addressed is: Sharon Segner, Otay Mesa Generating Company, LLC, 1100 Louisiana, Floor 16, Houston, Texas 77002, (713) 371–6010 (Phone) or (713) 371–7215 (Fax).

Otay Mesa is owned by Otay Mesa Corporation and PG&E Generating Energy Group, LLC. Otay Mesa states that it has proposed to construct a natural gas-fired electric power generating plant in San Diego County, California, that will be connected to its proposed border crossing facilities by a 1.5 mile long pipeline. Otay Mesa hopes to receive final approval for the power plant from the California Energy Commission on April 18, 2001.

It is stated, that the border crossing facilities will be used solely for private transportation service to supply Otay Mesa's proposed electric generating plant. According to Otay Mesa, its California Energy Commission permit will license, for the power plant, interconnections with the facilities of both Transportation de Gas Natural de Baja California (TGN), at the United States/Mexico border, and San Diego Gas and Electric Company.

The gas that is transported by TGN to Otay Mesa's border crossing facilities is produced in the United States (in the San Juan and Permian Basins) and would be transported by, among others, North Baja Pipeline, LLC (NBP) to the United States/Mexico border, and then further transported by Gasducto Bajanorte, S. de R.L. de C.V. (GBN) from the border to an interconnect with TGN's system near Tijuana, Mexico. NBP has an application pending before the Commission, in Docket Nos. CP01–22–000, *et al.*, requesting authorization to construct and operate the required pipeline facilities. GBN received a permit to construct and operate the Mexican portion of the facilities from the Mexican Comison Reguladoro De Energia on December 15, 2000, in Docket No. S27–G–624–0. Otay Mesa states that it will file an application for Department of Energy/Office of Fossil Energy (DOE/FE) authorization to import up to 110 MMcf per day from Mexico or will purchase the natural gas on the U.S. side of the border from an entity that has such DOE/FE import authorization.

Otay Mesa has not yet entered into a construction and operation agreement and, therefore, requests waiver of section 153.8(4) of the Commission's regulations which require the filing of such agreement as Exhibit D of the application. Otay Mesa explains that it desired to have its request pending before the Commission at the earliest possible date so that there will be no unnecessary delays in providing for the supply of natural gas to its proposed power plant, and states that Otay Mesa will submit the construction and operating agreement to the Commission at the earliest possible date. Otay Mesa expects to begin construction on the proposed border crossing facilities in late 2002 or early 2003 and that construction will take 30 days to complete.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 4, 2001, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Comments, protests and interventions 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 3 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. Under the procedure provided for, unless otherwise advised, it will be unnecessary for Otay Mesa to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 01–9706 Filed 4–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–374–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Proposed Change in FERC Gas Tariff

April 13, 2001.

Take notice that on April 10, 2001, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Thirty-first Revised Sheet No. 4, to become effective April 1, 2001.

GTN states that the purpose of this filing is to request a reduction in its Mitigation Revenue Recovery Surcharge (MRRS) in compliance with the requirements of its Settlement in Docket Nos. RP94–149–000, et al. In addition, GTN is filing to reduce its Competitive Equalization Surcharge, which was designed to mirror the MRRS and apply to new expansion shippers subscribing to long-term firm capacity on GTN.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions 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. 01–9704 Filed 4–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1682–000]

Southwest Regional Transmission Association; Notice of Filing

April 13, 2001.

Take notice that on March 27, 2001, Southwest Regional Transmission Association (SWRTA) tendered for filing Withdrawal from Membership of the Tonopah Irrigation District effective June 30, 2001.

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 April 20, 2001. 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). Comments, protests and interventions 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. 01–9658 Filed 4–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 66 FR 14904–14906, dated March 14, 2001) is amended to reflect the establishment of the National Center on Birth Defects and Developmental Disabilities within the Centers for Disease Control and Prevention.

The Children's Health Act of 2000, passed by the U.S. Congress and signed into law by the President on October 17, 2000, requires the establishment of the National Center on Birth Defects and Developmental Disabilities at CDC by April 15, 2001. As specified in the Act, CDC will include in the new Center the programs, functions, and staff of the current Division of Birth Defects and Developmental Disabilities (DBDDD), National Center for Environmental Health (NCEH). Consequently, DBDDD will be abolished as an organizational component of NCEH and established as the National Center on Birth Defects and Developmental Disabilities. Congressional intent of the Act is focused on incorporating birth defects and developmental disabilities, as well as adult disabilities and secondary prevention programs, in the new Center.

Section C–B, Organization and Functions, is hereby amended as follows:

After the mission statement for the *Division of Acute Care, Rehabilitation Research, and Disability Prevention (CE6), National Center for Injury Prevention and Control (CE),* insert the following:

National Center on Birth Defects and Developmental Disabilities (CF)

The mission of the National Center on Birth Defects and Developmental Disabilities (NCBDDD) is to improve the health of children and adults by preventing birth defects and developmental disabilities, promoting optimal child development, and the health and wellness among children and adults living with disabilities. In carrying out this mission, this organization: (1) Conducts public health research, epidemiological investigations, and program demonstrations directed toward preventing birth defects and developmental disabilities, optimal fetal, infant, and child development, and promoting the health and wellness of people with disabilities, including the prevention of secondary conditions; (2) plans, develops, establishes, and maintains systems of surveillance and monitoring the population for these conditions; (3) operates regional centers for the conduct of applied epidemiological research on these conditions; (4) provides information and education to health care providers, public health professionals, and the public on these conditions; (5) provides technical assistance, consultation, capacity building through technology transfer, grants, cooperative agreements, contracts, and other means to State, local, international, and nonprofit organizations to prevent and control these

conditions; (6) provides training in the epidemiology of these conditions for health professionals within and outside the United States; (7) translates scientific findings into intervention, prevention, and health promotion strategies; (8) conducts evaluations of programs to determine effectiveness; and (9) coordinates activities with other CDC organizations and federal and non-federal health agencies, as appropriate.

Delete in their entirety the title and mission statement for the *Division of Birth Defects and Developmental Disabilities (CN5), National Center for Environmental Health (CN).*

Section C–D, Delegations of Authority. All delegations and redelegations of authority to any officers or employees which were in effect immediately prior to this reorganization and which are consistent with this reorganization shall continue in effect pending further redelegation.

Dated: April 12, 2001.

Jeffrey P. Koplan,

Director.

[FR Doc. 01–9739 Filed 4–18–01; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–0785]

Guidance on Medical Device Patient Labeling; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance document entitled ''Guidance on Medical Device Patient Labeling.'' This guidance describes how to make medical device patient labeling understandable to and usable by patients (or family members or other lay persons caring for patients). It is intended to assist manufacturers in their development and reviewers in their review and evaluation of medical device patient labeling. This guidance is designed to help assure safe and effective use of medical devices through medical device patient labeling that informs patients or their lay caregivers about proper use, risks, and benefits of the device in language they can understand.

DATES: Submit written comments at any time.

ADDRESSES: Submit written requests for single copies on a 3.5'' diskette of the guidance document entitled ''Guidance on Medical Device Patient Labeling'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Paula G. Silberberg, Center for Devices and Radiological Health (HFZ–230), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–1217.

SUPPLEMENTARY INFORMATION:

I. Background

The guidance provides information on the content, format, and organization of information that patients need to use medical devices safely and effectively. It also gives principles for writing and presenting patient information in a manner most understandable and usable to patients and their lay caregivers. With an increase in patient use of complex medical devices previously used primarily by skilled and knowledgeable health-care professionals, effective medical device patient labeling has become increasingly important to help assure the safe and effective use of devices. This guidance document was published for public comment on March 3, 2000, as a draft proposal entitled ''Guidance on Medical Device Patient Labeling.''

Both the draft guidance document and the March 2000 notice provided an opportunity for public comment, which closed June 2, 2000. Based on the comments received, the following substantive changes have been incorporated into the final version of the guidance.

1. FDA inserted a paragraph in ''What is the purpose of this guidance?'' explaining that when translating the professional label into lay language, care should be taken to ensure that the lay language does not alter the intent of the indications, contraindications, warnings and precautions, or other parts of the labeling.

2. The sections ''When should you use medical device patient labeling?'' and ''Determining Sequence and Content'' were restructured and revised for clarity. Both sections were clarified to focus on the needs of the specific target population for the device rather than an inflexible formula.

3. The section entitled ''Alternatives to the device and treatment'' was deleted.

4. Changes were made to address the safe and proper methods of disposing of medical devices.

5. FDA has clarified that clinical studies information can be provided either as part of the patient labeling, or upon request.

II. Significance of Guidance

This guidance document represents the agency's current thinking on medical device patient labeling. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statutes and regulations.

The agency has adopted the good guidance practices (GGP's) regulation, which sets forth the agency's policies and procedures for the development, issuance, and use of guidance documents (21 CFR 10.115; 65 FR 56468, September 19, 2000). This guidance document is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive ''Guidance on Medical Device Patient Labeling'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at the second voice prompt press 2 and then enter the document number (1128) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes ''Guidance on Medical Device Patient Labeling,'' device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information.

The CDRH home page may be accessed at http://www.fda.gov/cdrh. ''Guidance on Medical Device Patient Labeling'' will be available at http://www.fda.gov/cdrh/HumanFactors.html.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the guidance at any time. Such comments will be considered when determining whether to amend the current guidance. Two copies of any comments are to be submitted, except that individual may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document is available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 2, 2001.

Linda S. Kahan,

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

[FR Doc. 01–9652 Filed 4–18–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Chimpanzee Sanctuary Capability Statements

The purpose of this Notice is to determine the capabilities of any private nonprofit organizations interested in serving as a contractor to provide lifetime care for chimpanzees as required under the ''Chimpanzee Health Improvement, Maintenance, and Protection (CHIMP) Act,'' Public Law 106–551, which amended Section 481C of the Public Health Service Act on December 20, 2000.

To carry out the CHIMP Act, the National Institutes of Health (NIH), acting on behalf of the Secretary of Health and Human Services, will, among other things:

• Seek to award a contract to a private nonprofit organization that meets the detailed requirements set forth in the Act. A complete copy of the Act is available at *http://thomas.loc.gov/* or from the Contract Office listed below. Interested institutions should pay particular attention to the sections titled ''Chimpanzees Accepted Into System'' [Section 481C(d)(2)(A)–(K)], ''Requirements'' [Section 481C(e)(2)(A)–(H)], ''Board of Directors'' [Section 481C(e)(3)], and ''Requirement of Matching Funds'' [Section 481C(e)(4)]; and

• Identify the number of chimpanzees no longer needed for research that are available for placement in the sanctuary.

In order for NIH to assess those organizations capable of responding to a Request for Proposals, we are requesting that interested organizations submit capability statements. When responding to this notice, organizations are asked to review the requirements of the CHIMP Act and address the following 5 items:

1. *Nonhuman Primate Management Experience and Stability:* (a) Describe when your organization was established; (b) its management structure; (c) the staff that would be assigned to this project; (d) their experience in managing and caring for chimpanzees; (e) evidence of financial stability and resources that can be brought to the project;

2. *Matching Funds:* Provide evidence of your organization's ability to make non-Federal contributions in cash or in-kind, in an amount not less than 10% of the establishment costs (including construction costs), and 25% of the yearly operational expenses;

3. *Capacity to Hold Chimpanzees:* Due to cost effectiveness constraints aimed at achieving the savings foreseen by the Congressional Budget Office, potential offerors must demonstrate the capacity to house and care for at least 75 chimpanzees. Describe your facility's present or planned capacity to manage and operate a system holding at least 75 chimpanzees, with the future possibility of expansion at the original or additional sites;

4. *Working with Diverse Groups:* Describe your ability and willingness to work with members of the animal protection community, NIH, and a wide variety of other interested parties. In addition, describe your experience or plans for using a board of directors experienced in captive chimpanzee management, animal protection, behavioral primatology, business management, laboratory animal medicine, accreditation of animal facilities, and biohazard containment;

5. *Board of Directors:* Submit letters of commitment for possible members to serve on the board of directors of the sanctuary. Indicate the full name, credentials, expertise, and organizational affiliation(s) for each person.

If possible, please address the 5 items above in a capability statement of no more than 30 pages in length. The capability statement will neither bind nor obligate any organization at this time. If a Request for Proposals (RFP) is issued, the NIH will transmit a copy of it to all organizations whose capability statements have been received by the due date of May 15, 2001. An announcement of availability of the RFP will also be made in the Commerce Business Daily and in the NIH Guide for Grants and Contracts. Please send three copies of the capability statement with an accompanying signed transmittal letter so that they will be received at the following address by May 15, 2001: Mr. Robert Best, Contracting Officer, National Heart, Lung, and Blood Institute, DEA, Contracts Operations Branch, Two Rockledge Centre, Room 6100, 6701 Rockledge Drive, MSC 7902, Bethesda, MD 20892–7902.

Dated: April 12, 2001.

Ruth L. Kirschstein,

Acting Director, NIH.

[FR Doc. 01–9681 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Spore in Breast and Prostate Cancer.

Date: May 9–10, 2001.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Barcelo Hotel, 2121 P Street, NW, Washington, DC 20037.

Contact Person: Brian E. Wojcik, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8019, Bethesda, MD 20892, 301/402–2785.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when

applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9693 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Technologies for Comprehensive, Quantitative Protein Analysis in Human Tumors.

Date: May 7–8, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Joyce C Pegues, Phd, Scientific Review Administrator, Special Review, Referral, and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8084, Bethesda, MD 20892, 301/594–1286.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9695 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Cancer Care Outcomes Research and Surveillance Consortium.

Date: April 30–May 1, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Lalita D. Palekar, PhD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institute of Health, 6116 Executive Boulevard, Room 8066, Bethesda, MD 20892–7405, (301) 496–7575.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9696 Filed 4–18–01; 8:45 am]

BILLING CODE 41–10–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the President's Cancer Panel.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: President's Cancer Panel.

Date: May 24–25, 2001.

Time: 9 a.m. to 3 p.m.

Agenda: Improving Cancer Care for All: Real People—Real Problems.

Place: Grand Hyatt, 1000 H Street, NW, Washington, DC 20001.

Contact Person: Maureen O. Wilson, PhD, Executive Secretary, National Cancer Institute, National Institutes of Health, 31 Center Drive, Building 31, Room 4A48, Bethesda, MD 20892, 301/496–1148.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: deainfo.nci.nih.gov/advisory/pcp/pcp.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower, 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9697 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Advisory Committee to the Director, National Cancer Institute.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee to the Director, National Cancer Institute.

Date: May 10, 2001.

Time: 12 p.m. to 1 p.m.

Agenda: To discuss the Leukemia, Lymphoma, and Myeloma Progress Review Group Report.

Place: National Cancer Institute, National Institutes of Health, 9000 Rockville Pike, Building 31, Room 11A03, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Susan J. Waldrop, Executive Secretary, National Institutes of Health, National Cancer Institute, Office of Scientific Opportunities, Bethesda, MD 20892, 301/496–1458.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: deainfo.nci.nih.gov/advisory/joint/htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9698 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The other and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the other, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: April 24, 2001.

Time: 2:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate concept review.

Place: 6000 Exeecutive Blvd., Rm 409, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: L. Tony Beck, PhD, Scientific Review Administrator, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003, 301–443–0931, lbeck@mail.nihg.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.272, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: April 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9683 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: May 3, 2001.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 6000 Executive Blvd., Rm 409, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: L. Tony Beck, PhD, Scientific Review Administrator, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003, 301–443–0931, lbeck@mail.nigh.gov.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Health Services Research Review Subcommittee.

Date: June 14, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Elsie Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, etaylor@niaaa.nih.gov.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Clinical and Treatment Subcommittee.

Date: July 12–13, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Elsie Taylor, MS, Scientific Review Administrator, Extramural

Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, etaylor@niaaa.nih.gov.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: July 16–17, 2001.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: L. Tony Beck, PhD, Scientific Review Administrator, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003, 301–443–0931, lbeck@mail.nigh.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: April 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9684 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: May 14, 2001.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, dsommers@mall.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: April 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9685 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 522b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Aging.

Date: May 22–23, 2001.

Closed: May 22, 2001, 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Open: May 23, 2001, 8 a.m. to Adjournment.

Agenda: Call to Order: Report of BAP Program Review; Program Highlights; Overview of NRC Report on Research Priorities in Behavioral and Social Sciences of NIH; and Working Group on Program.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: Miriam F. Kelty, Phd. Director, Office of Extramural Affairs, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C218, Bethesda, MD 20892, 301–496–9322.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: April 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9687 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIA.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Aging, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIA, Review of the Laboratory of Cellular and Molecular Biology.

Date: May 15–17, 2001.

Closed: May 15, 2001, 7 p.m. to recess.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: May 16, 2001, 8 a.m. to 8:30 a.m.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Open: May 16, 2001, 8:30 a.m. to 12 p.m.
Agenda: Committee Discussion.
Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: May 16, 2001, 8:30 a.m. to 1 p.m.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Open: May 16, 2001, 1 p.m. to 5 p.m.
Agenda: Committee Discussion.
Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: May 17, 2001, 8 a.m. to 8:30 a.m.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Open: May 17, 2001, 8:30 a.m. to 12 p.m.
Agenda: Committee Discussion.
Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: May 17, 2001, 12 p.m. to 1 p.m.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Contact Person: Dan L. Longo, MD, Scientific Director, National Institute of Aging, Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825, 410–558–8110, dl14q@nia.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: April 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9688 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–B(M3).
Date: May 1, 2001.
Time: 3 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: 2 Democracy Plaza, 6707 Democracy Blvd, RM 645, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Ned Feder, Md, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 748, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–8890.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–7 M5.
Date: May 4, 2001.
Time: 11 a.m. to 12:30 p.m.
Agenda: To review and evaluate grant applications.
Place: 6707 Democracy Blvd., Rm# 754, Democracy Plaza II, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 754, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9689 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(c) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.
Date: April 20, 2001.
Time: 8:30 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.
Contract Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, PhS, DHHS, 9000 Rockville Pike, 6100 Bldg., Room 5E01, Bethesda, MD 20892, (301) 496–1485.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Healths, HHS)

Dated: April 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9690 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the National Advisory General Medical Sciences council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other

reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory General Medical Sciences Council.

Date: May 17–18, 2001.

Closed: May 17, 2001, 8:30 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Open: May 17, 2001, 11 a.m. to 5 p.m.

Agenda: For the discussion of program policies and issues, opening remarks, report of the Director, NIGMS, new potential opportunities, and other business of the Council.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Closed: May 18, 2001, 8:30 a.m. to adjournment.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: Norka Ruiz Bravo, PhD, Associate Director for Extramural Activities, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 2AN24G, Bethesda, MD 20892, (301) 594–4499.

Name of Committee: National Advisory General Medical Sciences Council.

Date: September 13–14, 2001.

Closed: September 13, 2001, 8:30 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Open: September 13, 2001, 11 a.m. to 5 p.m.

Agenda: For the discussion of program policies and issues, opening remarks, report of the Director, NIGMS, new potential opportunities, and other business of the Council.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Closed: September 14, 2001, 8:30 a.m. to adjournment.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: Norka Ruiz Bravo, PhD, Associate Director for Extramural Activities, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 2AN24G, Bethesda, MD 20892, (301) 594–4499.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: April 10, 2001.

LeVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9691 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Instiute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets of commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: April 18, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Gopal M. Bhatnagar, Phd, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, National Institutes of Health, PHS, DHHS, 9000 Rockville Pike, 6100 Bldg., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS).

Dated: April 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9694 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Diabetes-Induced Birth Defects: Mechanisms & Prevention.

Date: May 9, 2001.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd. 5th Floor, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Norman Chang, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: April 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9699 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: April 26, 2001.

Time: 10 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Rm. 5E03, Bethesda, MD 20892, 301–435–6908.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: April 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9700 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 18, 2001.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael Micklin, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 435–1258, micklinm@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 24, 2001.

Time: 9 a.m. to 10 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael Micklin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 435–1258, micklinm@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 10, 2001.

Time: 10 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9682 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 12, 2001.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Robert Freund, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7808, Bethesda, MD 20892, 301–435–1050, freundr@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 20, 2001.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Prabha L Atreya, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, (301) 435–8367.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 24, 2001.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Nunn, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7850, Bethesda, MD 20892, (301) 435–1257.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9692 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Governors of the Warren Grant Magnuson Clinical Center.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Board of Governors of the Warren Grant Magnuson Clinical Center.

Date: June 1, 2001.

Time: 9 a.m. to 1:30 p.m.

Agenda: For discussion of planning and operational issues.

Place: National Institutes of Health, Clinical Center Medical Board Room, 2C116, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Maureen E. Gormley, Executive Secretary, Warren Grant Magnuson Clinical Center, National Institutes of Health, Building 10, Room 2C146, Bethesda, MD 20892, 301/496–2897.

Dated: April 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–9686 Filed 4–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to sections 10(a)(1)(A) and 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.).

Permit Number TE040873

Applicant: Jeffrey Robert Skinner, Kirksville, Missouri

The applicant requests a permit to take Mead's milkweed (Asclepias meadii) in Missouri.

Permit Number TE040874

Applicant: Kelly E. Lane, St. Louis, Missouri

The applicant requests a permit to take (capture, handle, and harass) gray bat (Myotis grisescens) and Indiana bat (M. Sodalis) in several areas in Missouri. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number TE040878

Applicant: The Nature Conservancy, Indiana Field Office, Indianapolis, Indiana

The applicant requests a permit to take the Karner blue butterfly (Lycaeides melissa samuelis) in Lake County, Indiana. The applicant is proposing to re-introduce the Karner blue butterfly into restored habitat within the species historic range. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number TE040881

Applicant: Timothy C. Carter, Murphysboro, Illinois

The applicant requests a permit to authorize take (capture, handle, mark and release) gray bat (Myotis grisescens) and Indiana bat (M. Sodalis) throughout Illinois, Indiana, Iowa, Michigan, Missouri, Ohio and Wisconsin. The scientific research is aimed at enhancement of survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who requests a copy from the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, peter_fasbender@fws.gov, telephone (612) 713–5343, or FAX (612) 713–5292.

Dated: April 9, 2001.

Lynn M. Lewis,

Acting Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 01–9661 Filed 4–18–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF JUSTICE

Civil Rights Division; Office of Special Counsel for Immigration Related Unfair Employment Practices; Immigration Related Employment Discrimination Public Education Grants

AGENCY: Office of Special Counsel for Immigration Related Unfair Employment Practices, Civil Rights Division, U.S. Department of Justice.

ACTION: Notice of availability of funds and solicitation for grant applications.

SUMMARY: The Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) announces the availability of funds for grants to conduct public education programs about the rights afforded potential victims of employment discrimination and the responsibilities of employers under the antidiscrimination provisions of the Immigration and Nationality Act (INA), 8 U.S.C. § 1324b.

It is anticipated that a number of grants will be competitively awarded to applicants who can demonstrate a capacity to design and successfully implement public education campaigns to combat immigration related employment discrimination. Grants will range in size from $40,000 to $100,000.

OSC will accept proposals from applicants who have access to potential victims of discrimination or whose experience qualifies them to educate workers, employers and the general

public about the antidiscrimination provisions of the INA. OSC welcomes proposals from diverse nonprofit organizations such as local, regional or national ethnic and immigrants' rights advocacy organizations, labor organizations, trade associations, industry groups, professional organizations, or other nonprofit entities, including state and local government agencies, providing information services to potential victims of discrimination and/or employers.

APPLICATION DUE DATE: June 4, 2001.

FOR FURTHER INFORMATION CONTACT: Patita McEvoy, Public Affairs Specialist, Office of Special Counsel for Immigration Related Unfair Employment Practices, 1425 New York Ave., NW., Suite 9000, P.O. Box 27728, Washington, DC 20038–7728. Tel. (202) 616–5594, or (202) 616–5525 (TDD for the hearing impaired). OSC's e-mail address is: ocs.crt@usdoj.gov

SUPPLEMENTARY INFORMATION: The Office of Special Counsel for Immigration Related Unfair Employment Practices of the Civil Rights Division of the Department of Justice announces the availability of funds to conduct cost-effective public education programs concerning the antidiscrimination provisions of INA. Funds will be awarded to selected applicants who propose cost-effective ways of educating employers, workers covered by this statute, and/or the general public.

Background: The Immigration and Nationality Act protects work-authorized individuals from employment discrimination based on their citizenship status and/or national origin. Federal law also makes knowingly hiring unauthorized workers unlawful, and requires employers to verify the identity and work authorization of all new employees. Employers who violate this law are subject to sanctions, including fines and possible criminal prosecution.

Employers of four or more employees are prohibited from discriminating on the basis of citizenship status or national origin in hiring, firing, recruitment or referral for a fee, and prohibits employers from engaging in document abuse in the employment eligibility verification process.

U.S. citizens and certain classes of work authorized individuals are protected from *citizenship status discrimination.* Protected non-citizens include:

- Temporary Residents;
- Legal Permanent Residents;
- Refugees;
- Asylees.

Citizens and *all* work authorized individuals are protected from *discrimination on the basis of national origin.* However, this prohibition applies only to employers with four to fourteen employees. National origin discrimination complaints against employers with fifteen or more employees remain under the jurisdiction of the Equal Employment Opportunity Commission pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*

In addition, under the *document abuse provision* of the law, employers must accept all forms of work authorization and proof of identify allowed by the Immigration and Naturalization Service (NIS) for completion of the Employment Eligibility Verification (I–9) Form. Employers may not prefer or require one form of documentation over another for hiring purposes. Requiring more or specific documents to prove identity and work authorization may constitute document abuse.

OSC is responsible for receiving and investigating discrimination charges and, when appropriate, filing complaints with specially designated administrative law judges. OSC also initiates independent investigations of possible immigration related job discrimination.

While OSC has established a record of vigorous enforcement, studies by the U.S. General Accounting Office and other sources have shown that there is an extensive lack of knowledge on the part of protected individuals and employers about the antidiscrimination provisions of the INA. Enforcement cannot be effective if potential victims of discrimination are not aware of their rights. Moreover, discrimination can never be eradicated so long as employers are not aware of their responsibilities.

Purpose: OSC seeks to educate both workers and employers about their rights and responsibilities under the antidiscrimination provisions of INA. Because previous grantees have developed a wealth of materials, (*e.g.*, brochures, posters, booklets, information packets and videos) to educate these groups, OSC has determined that the main focus of the program should be on the *actual delivery* of these materials to educate further both potential victims and employers. OSC seeks proposals that will use *existing materials* effectively to educate large numbers of workers or employers about exercising their rights or fulfilling their obligations under the antidiscrimination provisions. OSC will, of course, consider any proposal that articulates and substantiates other creative means of reaching these populations.

Program Description: The program is designed to develop and implement cost-effective approaches to educate potential victims of employment discrimination about their rights and to educate employers about their responsibilities under INA's antidiscrimination provisions. *Applications may propose to educate potential victims only, employers only, or both in a single campaign.* Program budgets must include the travel, lodging and other expenses necessary for up to two program staff members to attend the mandatory OSC grantee training (2 days) held in Washington, DC at the beginning of the grant period (late Autumn). Proposals should outline the following key elements of the program:

Part I: Intended Audience(s)

The educational efforts under the grant should be directed to (1) work-authorized non-citizens who are protected individuals, since this group is especially vulnerable to employment discrimination; (2) those citizens who are most likely to become victims of employment discrimination; and/or (3) employers, especially small businesses. The proposals should define the characteristics of the work authorized population or the employer group(s) intended to be the focus of the educational campaign, and the applicant's qualifications to reach credibly and effectively large segments of the intended audience(s).

The proposals should also detail the reasons for focusing on each group of protected individuals or employers by describing particular needs or other factors to support the selection. In defining the campaign focuses and supporting the reasons for the selection, applicants may use census data, studies, surveys, or any other sources of information of generally accepted reliability.

Part II: Campaign Strategy

We encourage applicants to devise effective and creative means of public education and information dissemination that are specifically designed to reach the widest possible intended audience. Those applicants proposing educational campaigns addressing potential victims of discrimination should keep in mind that some of the traditional methods of public communication may be less than optimal for educating members of national or linguistic groups that have limited community-based support and communication networks.

Grants are an important component of OSC partnerships to better serve the public, employers and potential discrimination victims. Grantees should plan to include OSC attorneys and other professional staff in public outreach programs in order to more successfully reach their audiences and prevent discrimination before it occurs or combat it where it exists.

Some grantees who are conducting citizenship campaigns have, in the past, combined those efforts and resources with the INA antidiscrimination education campaigns in order to maximize the scope and breadth of the project and to reach a larger number of individuals. Applicants proposing to combine these efforts should discuss how the programs will interact and how the budgets will be administered.

Proposals should discuss the components of the campaign strategy, detail the reasons supporting the choice of each component, and explain how each component will effectively contribute to the overall objective of cost-effective dissemination of useful and accurate information to a wide audience of protected individuals of employers. Discussions of the campaign strategies and supporting rationale should be clear, concise, and based on sound evidence and reasoning.

Since there presently exists a wealth of materials for use in educating the public, applicants should include in their budget proposals the cost for distribution of materials received from OSC or from current/past OSC grantees.

To the extent that applicants believe the development of original materials particularly suited to their campaign is necessary, their proposal should articulate in detail the circumstances requiring the development of such materials. All such materials must be approved by OSC prior to production to ensure legal accuracy and proper emphasis. Proposed revisions/translations of OSC-approved materials must also be submitted for clearance. All information distributed should also identify OSC as a source of assistance, information and action, and include the correct address and telephone numbers of OSC, (including the toll-free numbers, TDD numbers) and OSC e-mail and Internet addresses.

Part III: Evaluation of the Strategy

One of the central goals of this program is determining what public education strategies are most effective and thus, should be included in future public education efforts. Therefore, it is crucial that the methods of evaluating the campaign strategy and public education materials and their results be carefully detailed. A full evaluation of a project's effectiveness is due within 60 days of the conclusion of a campaign. Interim evaluation/activity reports are due at least quarterly, or more frequently as needed throughout the grant year.

Selection Criteria: The final selection of grantees for award will be made by the Special Counsel for Immigration Related Unfair Employment Practices.

A panel made up of OSC staff will review and rate the applications and make recommendations to the Special Counsel regarding funding. The panel's results are advisory in nature and not binding on the Special Counsel. *Letters of support, endorsement, or recommendation are not part of the grant application process and will not be considered.*

In determining which applications to fund, OSC will consider the following (based on a one-hundred point sale):

1. Program Design (50 points)

Sound program design and cost-effective strategies for educating the intended population are imperative. Consequently, areas that will be closely examined include the following:

a. Evidence of in-depth knowledge of the goals and objectives of the project. (10 points)

b. Selection and definition of the intended audience(s) for the campaign, and the factors that support the selection, including special needs, and the applicant's qualifications to reach effectively the intended audience(s). (15 points)

c. A cost-effective campaign strategy for educating employers and/or members of the protected class, with a justification for the choice of strategy, including the degree to which the campaign has prevented immigration related unfair employment practices and has reached individuals with such claims. (15 points)

d. The evaluation methods proposed by the applicant to measure the effectiveness of the campaign and their precision in indicating to what degree the campaign is successful. (10 points)

2. Administrative Capability (20 points)

Proposals will be rated in terms of the capability of the applicant to define the intended audience, reach it and implement the public education and evaluation components of the campaign:

a. Evidence of proven ability to provide high quality results. (10 points).

b. Evidence that the applicant can implement the campaign, and complete the evaluation component within the time lines provided. (10 points)

Note: OSC's experience during previous grant cycles has shown that a number of applicants choose to apply as a consortium of individual entities; or, if applying individually, propose the use of subcontractors to undertake certain limited functions. It is essential that these applicants demonstrate the proven management capability and experience to ensure that, as lead agency, they will be directly accountable for the successful implementation, completion, and evaluation of the project.

3. Staff Capability (10 points)

Applications will be evaluated in terms of the degree to which:

a. The duties outlined for grant-funded positions appear appropriate to the work that will be conducted under the award. (5 points)

b. The qualifications of the grant-funded positions appear to match the requirements of these positions. (5 points)

Note: If the grant project manager or other member of the professional staff is to be hired later as part of the grant, or should there be any change in professional staff during the grant period, hiring is subject to review and approval by OSC at that time.

4. Previous Experience (20 points)

The proposals will be evaluated on the degree to which the applicant demonstrates that it has successfully carried out programs or work of a similar nature in the past.

Eligible Applicants: This grant competition is open to nonprofit organization, including labor organizations, employer groups and state and local government agencies.

Grant Period and Award Amount: It is anticipated that several grants will be awarded and will range in size from $40,000 to $100,000.

Publication of this announcement does not require OSC to award any specific number of grants, or to obligate all or any part of available funds. The period of performance will be twelve months from the date of the grant award, in most cases beginning October 1, 2001.

Application Deadline: All applications must be received by 6 p.m. EDT, on (45 days after date of publication). If using regular first-class mail, send to: Office of Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice, P.O. Box 27728, Washington, DC 20038–7728. If using overnight or priority mail, send to: Office of Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice, 1425 New York Ave., NW., Suite 9000, Washington, DC 20005. Applications may not be submitted via facsimile machine.

Application Requirements: Applicants should submit an original and two (2) copies of their completed proposal by the deadline established

above. All submissions must contain the following items in the order listed below:

1. A completed and signed Application for Federal Assistance (Standard Form 424).

Note: The Catalogue of Federal Domestic Assistance number is 16.110 and the title is, Education & Enforcement of the Antidiscrimination Provisions of the Immigration and Nationality Act, (box #10 of the SF 424).

2. OJP Form 4061/6 (Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements).

3. Disclosure Form to Report Lobbying (SF LLL)

4. OJP Form 4000/3 (Assurances)

5. An abstract of the full proposal, not to exceed one page.

6. A program narrative of not more than fifteen (15) double-spaced typed pages that includes the following:

a. A clear statement describing the approach and strategy to be used to complete the tasks identified in the program description;

b. A clear statement of the proposed goals and objectives, including a listing of the major events, activities, products and timetables for completion and the extent of OSC participation in grantee outreach events;

c. The proposed staffing plan.

Note: If the grant project manager or other professional staff member is to be hired later as part of the grant, or should there be a change in professional staff, hiring is subject to review and approval by OSC at that time; and

d. Description of how the project will be evaluated.

7. A proposed budget outlining all direct and indirect costs for personnel, fringe benefits, travel, equipment, supplies, subcontracts, and a short narrative justification of each budgeted line item cost. If an indirect cost rate is used in the budget, then a copy of a current fully executed agreement between the applicant and the cognizant Federal agency must accompany the budget.

Note: Program budgets must include the travel, lodging and other expenses necessary for not more than two program staff members to attend the mandatory OSC grantee training (2 days) held in Washington, DC at the beginning of the grant period (late Autumn).

8. Copies of résumés of the professional staff proposed in the budget.

Applicants forms may be obtained by writing or telephoning: Office of Special Counsel for Immigration Related Unfair Employment Practices, P.O. Box 27728, Washington, DC 20038–7728. Tel. (202) 616–5594, or (202) 616–5525 (TDD for the hearing impaired). This announcement and the required forms will also appear on the World Wide Web at *www.usdoj.gov/crt/osc/*. In order to facilitate handling, please do not use covers, binders or tabs.

Dated: April 12, 2001.

John D. Trasviña,

Special Counsel for Immigration, Related Unfair Employment Practices.

[FR Doc. 01–9701 Filed 4–18–01; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Bureau of Justice Statistics

[OJP (BJS)–1318]

National Criminal History Improvement Program (NCHIP)

AGENCY: Bureau of Justice Statistics, Office of Justice Programs, Justice.

ACTION: Notice of program plan.

SUMMARY: The Bureau of Justice Statistics (BJS) is publishing this notice to announce the continuation of the National Criminal History Improvement Program (NCHIP) in Fiscal Year 2001. Copies of this announcement can also be found on the Internet at http://www.ojp.usdoj.gov/bjs/.

FOR FURTHER INFORMATION CONTACT: Carol G. Kaplan, Program Manager, Bureau of Justice Statistics, 810 7th Street, NW, Washington, DC, 20531; Phone (202) 307–0759 [this is not a toll free number]; Email: Carol.Kaplan@usdoj.gov

SUPPLEMENTARY INFORMATION: The NCHIP program was initiated in 1995 as an umbrella program encompassing evolving efforts to support State activities relating to the establishment of records systems and the collection and use of criminal history and related records. The goal of the NCHIP award program is to improve the Nation's public safety by enhancing the quality, completeness and accessibility of the Nation's criminal history and sex offender record systems and the extent to which such records can be used and analyzed for criminal justice and authorized noncriminal justice purposes.

A total of $44,000,000 was appropriated under the Crime Identification Technology Act in FY 2001 to cover NCHIP activities. Each eligible State and territory must submit an application by May 31, 2001 to be considered for funding from the FY 2001 appropriation. NCHIP awards are expected to be made by September 30, 2001.

Dated: April 6, 2001.

Lawrence A. Greenfeld,

Acting Director, Bureau of Justice Statistics.

[FR Doc. 01–9186 Filed 4–18–01; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention; Office of National Drug Control Policy

[OJP(OJJDP)–1314]

Drug-Free Communities Support Program

AGENCY: Office of National Drug Control Policy, Executive Office of the President, and Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of funding availability.

SUMMARY: The Executive Office of the President, Office of National Drug Control Policy (ONDCP), and the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP), are requesting applications for the fiscal year 2001 Drug-Free Communities Support Program to reduce substance abuse among youth and, over time, among adults. Approximately 144 grants of up to $100,000 each will be awarded to community coalitions that are working to prevent and reduce substance abuse among youth.

DATES: Applications must be received by June 25, 2001.

ADDRESSES: All applications must be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535. Faxed or e-mailed applications will not be accepted. Interested applicants can obtain the *FY 2001 Drug-Free Communities Support Program Application Package,* which includes the Program Announcement, required forms, and instructions on how to apply, from the Juvenile Justice Clearinghouse at 800–638–8736 or the ONDCP Drug Policy Information Clearinghouse at 800–666–3332. The *Application Package* is also available at OJJDP's Web site at http://www.ojjdp.ncjrs.org (click on ''Grants & Funding'') and ONDCP's Web site at http://www.whitehousedrugpolicy.gov/prevent/drugfree.html.

FOR FURTHER INFORMATION CONTACT: One of the following Program Managers at OJJDP:

- Pat Maher, Northwest Region, at 202–514–4158 or e-mail maherp@ojp.usdoj.gov
- Mark Morgan, Southwest Region, at 202–353–9243 or e-mail morganm@ojp.usdoj.gov
- Jay Mykytiuk, Mid-West/West Region, at 202–514–1351 or e-mail mykytiuk@ojp.usdoj.gov
- Judy Poston, Southeast Region, at 202–616–1283 or e-mail poston@ojp.usdoj.gov
- James Simonson, Northeast/East Region, at 202–353–9313, or e-mail simonson@ojp.usdoj.gov
- Gwen Williams, Central Region, at 202–616–1611, or e-mail williamg@ojp.usdoj.gov
- Lauren Ziegler, Northeast Region, at 202–616–8988, or e-mail zieglerl@ojp.usdoj.gov

[These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: The Drug-Free Communities Support Program is authorized by the Drug-Free Communities Act of 1997 (Pub. L. 105–20). The program is designed to strengthen community antidrug coalitions and reduce substance abuse among youth.

Grantees will receive up to $100,000 in funding and training and technical assistance to reduce substance abuse among youth by addressing the factors in a community that serve to increase or decrease the risk of substance abuse and establish and strengthen collaboration among communities, including Federal, State, local, and tribal governments and private nonprofit agencies to support community coalition efforts to prevent and reduce substance abuse among youth.

Eligible applicants are community coalitions whose members have worked together on substance abuse reduction initiatives for a period of not less than 6 months. The coalition will use entities such as task forces, subcommittees, community boards, and any other community resource that will enhance the coalition's collaborative effort. With substantial participation from community volunteer leaders, the coalition will implement multisector, multistrategy, long-term plans designed to reduce substance abuse among youth. Coalitions may be umbrella coalitions serving multicounty areas. However, no statewide grants will be awarded.

Dated: April 11, 2001.

Gregory L. Dixon,

Administrator, Drug-Free Communities Support Program, Office of National Drug Control Policy.

Dated: April 10, 2001.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 01–9649 Filed 4–18–01; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4509]

U.S. Forest Industries, Inc., South Fork Operation, South Fork, CO; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on January 30, 2001 in response to a petition filed on behalf of workers at U.S. Forest Industries, Inc., South Fork Operation, South Fork, Colorado.

This case is being terminated because there is currently a petition investigation in process (NAFTA–4362) which covers the workers of the subject company of the immediate investigation. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 6th day of April, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–9716 Filed 4–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4431]

Owens-BriGam Medical Company, Newland, North Carolina; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act and in accordance with section 250(a), Subchapter D, Chapter 2, Title II of the Trade Act of 1974, as amended (19 USC 2331), an investigation was initiated on January 4, 2001, in response to a worker petition which was filed by a company official on behalf of one worker at Owens-BriGam Medical Company, Newland, North Carolina. Workers at that facility performed administration functions only.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 6th day of April, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–9715 Filed 4–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 30, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 30, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 26th day of March, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

Appendix—Petitions Instituted on 03/26/2001

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
38,886	AGP, LC (PACE)	Sherman, TX	03/07/2001	Bulk Edible Oil.
38,887	Schlage Lock Co. (Co.)	San Jose, CA	03/08/2001	Locks.
38,888	Geneval Steel (USWA)	Provo, UT	03/07/2001	Hot Rolled Plate.
38,889	Elk Creek Raycarl Product (Co.)	Elk Creek, VA	02/26/2001	Cold Headed Piston Pins.
38,890	Erie Forge and Steel (Wkrs)	Erie, PA	03/08/2001	Custom Die Steel Forgings.
38,891	Pelton Casteel (Wkrs)	Milwaukee, WI	03/08/2001	Steel Castings.
38,892	Crest Uniform Co. (Co.)	New York City, NY	01/12/2001	Medical Uniforms.
38,893	Budd Company (The) (Wkrs)	Philadelphia, PA	03/02/2001	Automotive Parts.
38,894	Hoffman New Yorker (Wkrs)	Dushore, PA	03/07/2001	Garment Equipment and Dry Cleaning.
38,895	L'Koral, Inc. (Wkrs)	Vernon, CA	02/14/2001	Double and Single Knot Materials.
38,896	Vaagen Bros Lumber (Wkrs)	Colville, WA	03/07/2001	Processed Lumber.
38,897	J.E. Morgan Knitting Mills (Co.)	Tamaqua, PA	03/07/2001	Thermal Underwear.
38,898	LTV Steel Mining Co. (Wkrs)	Hoyt Lakes, MN	01/23/2001	Taconite Pellets.
38,899	Federal Mogul (GMP)	Malden, MO	03/02/2001	Pistons.
38,900	Borg Warner Air (Wkrs)	Water Valley, MS	03/06/2001	Transmission Control Solenoids.
38,901	Moose River Lumber (Wkrs)	Moose River, ME	03/14/2001	Softwood Dimensional Lumber.
38,902	Troy Design, Inc. (Wkrs)	Lansing, MI	03/06/2001	Design and Engineering Services.
38,903	United Design Corporation (Co.)	Noble, OK	03/05/2001	Giftware—Figurines, Collectibles.
38,904	Schott Corporation (Wkrs)	Marshall, MN	03/06/2001	Magnetic Transformers.
38,905	Nikki Knit (Wkrs)	Goldsboro, NC	03/12/2001	Children's Clothes.
38,906	O and P Tailor, Inc. (Co.)	Tellico Plains, TN	03/12/2001	Garments.
38,907	Bayer Clothing Group (Wkrs)	New York, NY	03/13/2001	Men's Suits and Slacks.
38,908	Electronic Circuits (Co.)	Sebring, OH	03/03/2001	Printed Wiring Board.
38,909	Dorsey Trailers (Wkrs)	Elba, AL	03/08/2001	Over the Road Trailers.
38,910	Metaldyne (Wkrs)	Ridgway, PA	03/09/2001	Connecting Rods, Bearing Caps.
38,911	ITT Industries (USWA)	Cheektowitga, NY	02/20/2001	Heating Exchange, Castings.
38,912	Co Steel Raritan (Co.)	Perth Amboy, NJ	03/12/2001	Steel.
38,913	Littelfuse, Inc. (Wkrs)	Centralia, IL	03/11/2001	Pico Fuses.
38,914	Bloomsburg Mills (Co.)	Bloomsburg, PA	03/15/2001	Ladies' Apparel.
38,915	Verson Press (UAW)	Chicago, IL	03/12/2001	Stamping Presses.
38,916	Levolor Home Fashions (Co.)	Rockaway, NJ	03/16/2001	Custom Window Blinds, Roller Shades.
38,917	Meade Industrial Services (Co.)	Boardman, OH	03/13/2001	Electro-Lifting Magnets.
38,918	Bakka (Co.)	El Paso, TX	03/13/2001	Sports Clothing.
38,919	Battle Mountain Gold (Wkrs)	Sparks, NV	03/08/2001	Gold and Silver Ore.
38,920	Color Edge (Wkrs)	Sturgis, MI	03/12/2001	Plastic Extrusions.
38,921	Glenshaw Glass (GMP)	Glenshaw, PA	03/12/2001	Glass Containers.
38,922	Thomas And Betts (Co.)	St. Mathews, SC	03/13/2001	Emergency Lighting.
38,923	Sunshine Precious Metal (Wkrs)	Kellogg, ID	03/14/2001	Concentrated Silver Ore.
38,924	Lexington Fabrics (Co.)	Florence, AL	03/12/2001	Textiles, Apparel.
38,925	National Steel Corp (Wkrs)	Portage, IN	03/09/2001	Steel.
38,926	Procon Products (SMW)	Murfreesboro, TN	03/01/2001	Rotors for Pumps.
38,927	Cascade Steel (USWA)	McMinnville, OR	02/20/2001	Steel Angles, Flats.
38,928	Motorola, Inc. (Co.)	Harvard, IL	02/14/2001	Cellular Phones.
38,929	Akzo Nobel Transportation (Co.)	Brownsville, TX	03/19/2001	Paint Products.
38,930	Harvest Time, Inc. (UNITE)	New York, NY	03/14/2001	Ladies' Sportswear.
38,931	I.C. Isaacs and Company (Co.)	Baltimore, MD	03/16/2001	T-Shirts, Jeans, Men's Polo Shirts.
38,932	Johnson and Johnson Med (Wkrs)	El Paso, TX	03/13/2001	Disposable Surgical Products.
38,933	Union Knitwear, Inc. (Co.)	Maynardville, TN	03/14/2001	T-Shirts, Blankets
38,934	Williamson Dickie Mfg (Wkrs)	Eagle Pass, TX	03/15/2001	Work Jeas.
38,935	Naturipe Berry Growers (IBT)	Watsonville, CA	03/14/2001	Process Strawberry Products.
38,936	Fruit of The Loom (Co.)	Greenville, MS	03/05/2001	Textile-Bleaching, Dyeing, Cutting.
38,937	Fruit of the Loom (Co.)	Osceloa, AR	03/05/2001	Men's, Ladies' Tee-Shirts and Underwear.
38,938	Fruit of the Loom (Co.)	Winfield, AL	03/05/2001	Yarn-Spinning.
38,939	Litton Network Access (Wkrs)	Roanoke, VA	02/05/2001	Network Systems.
38,940	Mayfair Mills, (Wkrs)	Lincolnton, GA	03/14/2001	Yarn-Cotton and Blended.
38,941	Motorguide Trolling (Wkrs)	Starkville, MS	01/28/2001	Electric Trolling Motors and Parts.

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
38,942	ISP Minerals (Co.)	Pembine, WI	03/14/2001	Roofing Granules.
38,943	Stant Manufacturing (UAW)	Connersville, IN	03/09/2001	Fuel and Radiator Caps.

[FR Doc. 01–9721 Filed 4–18–01; 8:45am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'' and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 30, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 30, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 2nd day of April, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 04/02/2001]

TA–W	Subject Firm (Petitioners)	Location	Date of Petition	Product(s)
38,944	Crane Pumps and Systems (Wrks)	Piqua, OH	03/09/2001	Casting—Machined and Assembled
38,945	Avaya Communication (Comp)	Shreveport, LA	03/15/2001	Telecommunications Equipment
38,946	Maxi Switch, Inc. (Comp)	Tucson, AZ	03/13/2001	PCB Sub-Assemblies
38,947	Falcon Shoe Manufacturing (Comp)	Lewiston, ME	03/20/2001	Work and Safety Footwear
38,948	C.B. Cummings and Sons Co (Comp)	Norway, ME	03/21/2001	Wooden Dowel Rods
38,949	Columbia Forest Products (Comp)	Klamath Falls, OR	03/15/2001	Softwood Veneer
38,950	Welbilt Corp—Delfield (Wkrs)	Mt. Pleasant, MI	03/15/2001	Stainless Steel Tables—Food Units
38,951	Findlay Industries (UNITE)	Botkins, OH	03/20/2001	Automobile Seat Covers
38,952	Keystone Thermometrics (Wkrs)	St. Marys, PA	03/16/2001	Termisters (Temp. Control Devices)
38,953	Steac-Hamatech (Wkrs)	Saco, ME	03/21/2001	Compact Discs
38,954	Omicron Industries, Inc. (Comp)	El Paso, TX	03/22/2001	Pumice Stone
38,955	Sherpard/Justin (UNITE)	New Bedford, MA	03/12/2001	Men's Suits
38,956	Ciba Specialty Chemical (Wkrs)	Old Bridge, NJ	03/19/2001	Water Treatment Chemicals
38,957	Nu-Kote International (Compu)	Franklin, TN	03/20/2001	Ink Jet Cartridges
38,958	Moeller Rubber Products (USWA)	Greenville, MS	03/21/2001	Molded Rubber Plugs
38,959	Carlisle Tire and Wheel (Wkrs)	Clinton, TN	03/19/2001	Tires and Wheels—Lawn & Garden
38,960	Spectron Lasers USA, Inc (Comp)	Warwick, RI	03/12/2001	Laser Tubes and Heads for Industrial Use
38,961	Hamburg Uniforms (Comp)	Hamburg, AR	03/15/2001	Uniform Knit Shirts
38,962	Smith Systems Mfg (Wrks)	Plano, TX	03/20/2001	School Furniture
38,963	Ridgeview, Inc. (Wrks)	Newton, NC	03/21/2001	Athletic Socks
38,964	SLI Product Lighting (Wrks)	Mullins, SC	03/20/2001	Light Bulbs
38,965	Ingersoll Milling Machine (Wrks)	Rockford, IL	03/16/2001	High Velocity Milling Machines
38,966	Dearborn Brass (GMP)	Tyler, TX	02/09/2001	Traps for Bothroom & Kitchen fixtures

[FR Doc. 01–9722 Filed 4–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,654]

U.S. Forest Industries, Inc, South Fork Operation, South Fork, Colorado; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 5, 2001 in response to a petition filed on behalf of workers at U.S. Forest Industries, Inc., South Fork Operation, South Fork, Colorado.

This case is being terminated because there is currently a prior petition investigation in process (TA–W–38,440) which covers the workers of the subject company. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 6th cay of April 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–9713 Filed 4–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,937]

Fruit of the Loom, Osceola, Arkansas; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 20, 2000, in response to a worker petition which was filed by a company official, on behalf of workers at Fruit of the Loom, Osceola, Arkansas.

An active certification covering the petitioning group of workers at the subject firm remains in effect (TA–W–38,448). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 6th day of April, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–9714 Filed 4–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,366]

Jeld Wen, Inc./Bend Millwork Company, Bend, Oregon; Including Contract Employees of Express Personnel Services Employed at Jeld Wen, Inc./Bend Millwork Co., Bend, Oregon; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 19, 2001, applicable to workers of Jeld Wen, Inc./Bend Millwork Co., Bend, Oregon. The notice was published in the **Federal Register** on February 20, 2001 (66 FR 10916).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Findings show that the Department inadvertently omitted contract employees of Express Personnel Services that was intended to be covered under this petition investigation. Information provided by the company shows that some employees of Jeld Wen, Inc./Bend Millwork Co., Bend, Oregon were contracted from Express Personnel Services to produce wood mouldings and millwork at the Bend, Oregon facility. Worker separations occurred at Express Personnel Services as a result of worker separations at Jeld Wen, Inc./Bend Millwork Co.

Based on these findings, the Department is amending the certification to include contract workers of Express Personnel Services, Bend, Oregon employed at Jeld Wen, Inc./Bend Millwork Co., Bend, Oregon.

The intent of the Department's certification is to include all workers of Jeld Wen, Inc./Bend Millwork Co. adversely affected by imports.

The amended notice applicable to TA–W–38,366 is hereby issued as follows:

All workers of Jeld Wen, Inc./Bend Millwork Co., Bend, Oregon including contract workers of Express Personnel Services, Bend, Oregon engaged in employment related to the production of wood mouldings and millwork at Jeld Wen, Inc./Bend Millwork Co., Bend, Oregon who became totally or partially separated from employment on or after November 7, 1999 through January 19, 2003 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 9th day of April, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–9720 Filed 4–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38, 531]

Owens-Brigam Medical Company, Newland, North Carolina; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 16, 2001, in response to a worker petition which was filed by a company official on behalf of one worker at Owens-BriGam Medical Company, Newland, North Carolina. Workers at that facility performed administration functions only.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 6th day of April, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–9718 Filed 4–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,736]

Perfect Fit Industries, Tell City Plant, Tell City, Indiana; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 5, 2001, in response to a petition filed on behalf of workers at Perfect Fit Industries, Tell City Plant, Tell City, Indiana.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 9th day of April, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–9717 Filed 4–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38, 400]

Potlatch Corporation, Cloquet, Minnesota; Including Temporary Workers of Olstein Temporary Services Employed at Potlatch Corporation, Cloquet, Minnesota; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 27, 2001, applicable to workers of Potlatch Corporation, Cloquet, Minnesota. The notice was published in the **FEDERAL REGISTER** on April 5, 2001 (66 FR 18117).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that some employees of the subject firm were temporary workers from Olsten Temporary Services employed to produce wood products, including paper, oxboard, paper board, tissue and two by fours at the Cloquet, Minnesota location.

Based on these findings, the Department is amending the certification to include temporary workers of Olsten Temporary Services, Duluth, Minnesota employed at Potlatch Corporation, Cloquet, Minnesota.

Accordingly, the Department is amending the certification to reflect this matter.

The amended notice applicable to TA–W–38, 400 is hereby issued as follows:

All workers of Potlatch Corporation, Cloquet, Minnesota, including temporary of Olsten Temporary Services, Duluth, Minnesota, engaged in the production of wood products, including paper, oxboard, paper board, tissue, and two by fours at Potlatch Corporation, Cloquet, Minnesota who became totally or partially separated from employment on or after November 27, 1999 through February 27, 2003 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 13th day of April, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–9719 Filed 4–18–01; 8:45 am]

BILLING CODE 4510–30–M

LEGAL SERVICES CORPORATION

Notice of Availability of Calendar Year 2002 Competitive Grant Funds

AGENCY: Legal Services Corporation.

ACTION: Solicitation for proposals for the provision of civil legal services.

SUMMARY: The Legal Services Corporation (LSC) is the national organization charged with administering federal funds provided for civil legal services to the poor.

LSC hereby announces the availability of competitive grant funds and is soliciting grant proposals from interested parties who are qualified to provide effective, efficient and high quality civil legal services to eligible clients in the states and territories, by service area(s) identified below. The exact amount of congressionally appropriated funds and the date, terms and conditions of their availability for calendar year 2002 have not been determined.

DATES: See Supplementary Information section for grants competition dates.

ADDRESSES: Legal Services Corporation—Competitive Grants, 750 First Street NE., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Office of Program Performance, Competitive Grants—Service Desk at (202) 336–8900, by FAX at (202) 336–7272, by e-mail at competition@lsc.gov, or visit the LSC web site at *www.ain.lsc.gov.*

SUPPLEMENTARY INFORMATION: Request for Proposals (RFP) will be available during the week of April 23, 2001. Applicants must file a Notice of Intent to Compete (NIC) to participate in the competitive grants process. The due date for filing the NIC is May 25, 2001.

Applicants competing for service areas in Alabama, Arizona, California, District of Columbia, Florida, Georgia, Illinois, Kansas (service area MKS), Massachusetts, Mississippi, Montana, Nevada, New Jersey (service area NJ–10), New York, Virginia and West Virginia must submit grant proposals for service areas in these states by June 18, 2001, 5 p.m. EDT.

Applicants competing for service areas in Arkansas, Kentucky, Louisiana, Michigan, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Wisconsin must submit grant proposals for service areas in these states by July 02, 2001, 5 p.m. EDT.

LSC is seeking proposals from: (1) Non-profit organizations that have as a purpose the furnishing of legal assistance to eligible clients; (2) private attorneys; (3) groups of private attorneys or law firms; (4) State or local governments; and (5) substate regional planning and coordination agencies which are composed of substate areas and whose governing boards are controlled by locally elected officials.

The RFP, containing the grant application, guidelines, proposal content requirements and specific selection criteria, is available from the LSC web site at *www.ain.lsc.gov.* LSC will not FAX the solicitation package to interested parties.

Below are the service areas for which LSC is requesting grant proposals. Service area descriptions are available from Appendix A of the RFP. The RFP will be available during the week of April 23, 2001, at *www.ain.lsc.gov.*

State	Service area
Alabama	AL–1, AL–2, AL–3
Arizona	AZ–2, AZ–3, AZ–5, MAZ, NAZ–5, NAZ–6
Arkansas	AR–6, AR–7
California	CA–1, CA–27, CA–28, NCA–1
District of Columbia	DC–1
Florida	FL–1, FL–2, FL–3, FL–4, FL–5, FL–6, FL–7, FL–8, FL–9, FL–10, FL–11, FL–12, MFL
Georgia	GA–1, GA–2, MGA
Illinois	IL–3, IL–7
Kansas	MKS
Kentucky	KY–2, KY–5, KY–9, KY–10
Louisiana	LA–9, LA–10, LA–11

State	Service area
Massachusetts	MA–1, MA–2, MA–3, MA–4, MA–5, MA–10
Michigan	MI–12, MI–13, MI–14, MI–15, MMI, NMI–1
Mississippi	MS–2, MS–3, MS–7, MS–8, NMS–1
Montana	MT–1, MMT, NMT–1
Nevada	NV–1, MNV, NNV–1
New Jersey	NJ–10
New Mexico	NM–1, NM–5, MNM, NNM–4, NNM–2
New York	NY–1, NY–3, NY–4, NY–6, NY–7, NY–8, NY–9, NY–10, NY–13, NY–14, NY–15, NY–16, NY–18, NY–19, MNY
North Carolina	NC–5, MNC, NNC–1
Oklahoma	OK–3, MOK, NOK–1
South Carolina	SC–8, MSC
Tennessee	TN–4, TN–7, TN–9, TN–10
Texas	TX–13, TX–14, TX–15, NTX
Virginia	VA–16, VA–17, VA–18, VA–19, VA–20, MVA
West Virginia	WV–5, MWV
Wisconsin	WI–5, NWI–1, MWI

Dated: April 16, 2001.

Randi Youells,

Vice-President for Programs.

[FR Doc. 01–9723 Filed 4–18–01; 8:45 am]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–293]

Entergy Nuclear Generation Company, Pilgrim Nuclear Power Station; Exemption

1.0 Background

The Entergy Nuclear Generation Company (the licensee) is the holder of Facility Operating License No. DPR–35 which authorizes operation of the Pilgrim Nuclear Power Station. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a boiling-water reactor located in Plymouth County, Massachusetts.

2.0 Purpose

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 or leak-rate 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.'' In addition, 10 CFR part 50, appendix G, specifies that the requirements for these limits ''must be at least as conservative as the limits obtained by following the methods of analysis and the margins of safety of appendix G of Section XI of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code).'' The approved methods of analysis in appendix G of Section XI require the use of K_{Ia} fracture toughness curve in the determination of the P–T limits.

By letter dated November 22, 2000, Entergy submitted a license amendment request to update the P–T limit curves for Pilgrim. By letter dated January 19, 2001, Entergy requested NRC approval for an exemption to use Code Cases N–588 and N–640 as alternative methods for complying with the fracture toughness requirements in 10 CFR part 50, appendix G, for generating the P–T limit curves. Requests for such exemptions may be submitted pursuant to 10 CFR 50.60(b), which allows licensees to use alternatives to the requirements of 10 CFR part 50, appendices G and H, if the Commission grants an exemption pursuant to 10 CFR 50.12 to use the alternatives.

Code Case N–588

The methods of ASME Code Case N–588 provide alternative methods for calculating the stress intensities due to membrane stresses (*i.e.,* K_{Im} values) and thermal stresses (*i.e.,* K_{It} values) for both axially and circumferentially oriented flaws. However, the alternative methods in Code Case N–588 for calculating the K_{Im} values and K_{It} values for axially oriented flaws are equivalent to those specified in the 1995 Edition of appendix G to Section XI of the ASME Code for axially oriented flaws. appendix G to 10 CFR part 50 requires that licensed utilities postulate the occurrence of an axially oriented flaw in each of the base metal materials and axial weld materials used to fabricate their RPVs. Exemptions to use ASME Code Case N–588 are, therefore, not necessary for RPVs that are limited in their beltline regions by base-metal or axial weld metal materials, because using the methods in the Code Case would not provide any benefit for evaluating the postulated axial flaws over those specified in the 1995 Edition of appendix G to Section XI of the ASME Code. Since the Pilgrim RPV is currently limited by lower shell-to-intermediate shell axial welds fabricated from material heat number 27204/12008, use of Code Case N–588 does not provide any benefit for Pilgrim. In a letter dated February 8, 2001, Entergy confirmed that the limiting reactor vessel welds are axial and withdrew its request for exemption for use of Code Case N–588.

Code Case N–640 (formerly Code Case N–626)

Code Case N–640 permits application of the lower bound static initiation fracture toughness value equation (K_{Ic} equation) as the basis for establishing the curves in lieu of using the lower bound crack arrest fracture toughness value equation ($_{i.e.,}$ the K_{Ia} equation, which is based on conditions needed to arrest a dynamically propagating crack, and which is the method invoked by appendix G to Section XI of the ASME Code). Use of the K_{Ic} equation in determining the lower bound fracture toughness in the development of the P–T operating limits curve is more technically correct than the use of the K_{Ia} equation 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} equation appropriately implements the use of the static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. However, since use of Code Case N–640 constitutes an alternative to the requirements of appendix G, licensees need staff approval to apply the Code

Case methods to the P–T limit calculations.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.''

Code Case N–640 (formerly Code Case N–626)

Entergy has requested, pursuant to 10 CFR 50.60(b), an exemption to use ASME Code Case N–640 (previously designated as Code Case N–626) as the basis for establishing the P–T limit curves. Appendix G to 10 CFR Part 50 has required use of the initial conservatism of the K_{Ia} equation since 1974 when the equation was codified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, the industry has gained additional knowledge about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{Ic} equation is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. In addition, the RPV P–T operating window is defined by the P–T operating and test limit curves developed in accordance with the ASME Code, Section XI, appendix G, procedure.

The ASME Working Group on Operating Plant Criteria (WGOPC) has concluded that application of Code Case N–640 to plant P–T limits is still sufficient to ensure the structural integrity of RPVs during plant operations. The staff has concurred with ASME's determination. The staff had concluded that application of Code Case N–640 would not significantly reduce the safety margins required by 10 CFR part 50, appendix G. The staff also concluded that relaxation of the requirements of appendix G to the Code by application of Code Case N–640 is acceptable and would maintain, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the NRC regulations to ensure an acceptable margin of safety for the Pilgrim RPV and reactor coolant pressure boundary (RCPB). Therefore, the staff concludes that Code Case N–640 is acceptable for application to the Pilgrim P–T limits.

The staff has determined that Entergy has provided sufficient technical bases for using the methods of Code Case N–640 for the calculation of the P–T limits for the Pilgrim RCPB. The staff has also determined that application of Code Case N–640 to the P–T limit calculations will continue to serve the purpose in 10 CFR part 50, appendix G, for protecting the structural integrity of the Pilgrim RPV and RCPB. In this case, since strict compliance with the requirements of 10 CFR part 50, appendix G, is not necessary to serve the underlying purpose of the regulation, the staff concludes that application of Code Case N–640 to the P–T limit calculations meets the special circumstance provisions stated in 10 CFR 50.12(a)(2)(ii), for granting this exemption to the regulation.

4.0 Conclusion

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. Also, special circumstances are present. Therefore, the Commission hereby grants Entergy Nuclear Generation Company an exemption from the requirements of 10 CFR part 50, appendix G, for Pilgrim.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 18986).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 13th day of April 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–9729 Filed 4–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–286]

Entergy Nuclear Operations, Inc., Indian Point Nuclear Generating Unit No. 3; Notice of Withdrawal of Application For Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Entergy Nuclear Operations, Inc. (the licensee) to withdraw its June 7, 2000, application for a proposed amendment to Facility Operating License No. DPR–64 for the Indian Point Nuclear Generating Unit No. 3, located in Westchester County, New York.

The proposed amendment would have revised the facility Technical Specifications pertaining to operations management qualifications.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on August 9, 2000 (65 FR 48756). However, by letter dated April 2, 2001, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated June 7, 2000, and the licensee's letter dated April 2, 2001, which withdrew the application for license amendment. 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 accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 12th day of April 2001.

For the Nuclear Regulatory Commission.

Richard J. Laufer,

Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–9730 Filed 4–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Call for Nominations

AGENCY: Nuclear Regulatory Commission.

ACTION: Call for nominations.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is advertising for nominations for the position of nuclear medicine physician on the Advisory Committee on the Medical Uses of Isotopes (ACMUI).

DATES: Nominations are due on or before June 18, 2001.

ADDRESSES: Submit nominations to the Office of Human Resources, Attn: Ms. Joyce Riner, Mail Stop T2D32, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Angela R. Williamson, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 415–5030; e-mail arw@nrc.gov.

SUPPLEMENTARY INFORMATION: The ACMUI advises NRC on policy and technical issues that arise in the regulation of the medical use of byproduct material. Responsibilities include providing comments on changes to NRC rules, regulations, and guidance documents; evaluating certain non-routine uses of byproduct material; providing technical assistance in licensing, inspection, and enforcement cases; and bringing key issues to the attention of NRC, for appropriate action.

ACMUI members possess the medical and technical skills needed to address evolving issues. The current membership is comprised of the following professionals: (a) Nuclear medicine physician; (b) nuclear cardiologist; (c) medical physicist in nuclear medicine unsealed byproduct material; (d) therapy physicist; (e) radiation safety officer; (f) nuclear pharmacist; (g) two radiation oncologists; (h) patients' rights advocate; (i) Food and Drug Administration representative; (j) State representative; and (k) health care administrator.

NRC is inviting nominations for the nuclear medicine physician appointment to the ACMUI. The term of the individual currently occupying this position will end April 2001. Committee members serve a 3-year term, with possible reappointment to an additional 3-year term.

Nominees must be U.S. citizens and be able to devote approximately 80 hours per year to Committee business. Members who are not Federal employees are compensated for their service. In addition, members are reimbursed travel (including per-diem in lieu of subsistence) and are reimbursed secretarial and correspondence expenses. Full-time Federal employees are reimbursed travel expenses only. Nominees will undergo a security background check and will be required to complete financial disclosure statements to avoid conflict-of-interest issues.

Dated: April 13, 2001.

Annette Vietti-Cook,

Acting, Advisory Committee Management Officer.

[FR Doc. 01–9726 Filed 4–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on May 10–12, 2001, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Friday, November 17, 2000 (65 FR 69578).

Thursday, May 10, 2001

8:15 A.M.–8:20 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:20 A.M.–10:20 A.M.: Final Review of the License Renewal Application for Arkansas Nuclear One (ANO), Unit 1 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Entergy Operations, Inc. regarding the license renewal application for ANO, Unit 1 and the associated staff's Safety Evaluation Report.

10:30 A.M.–12:30 P.M.: Members Attendance at the Commission Meeting on the Office of Nuclear Regulatory Research Programs and Performance (Open)—Drs. Powers and Wallis are scheduled to participate in this meeting which will be held in the Commissioners' Conference Room, One White Flint North. Other members will be attending this meeting as observers.

1:30 P.M.–3:30 P.M.: Draft Final Safety Evaluation Report for the South Texas Project Nuclear Operating Company (STPNOC) Exemption Request (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the staff's draft final Safety Evaluation Report for the STPNOC exemption request to exclude certain components from the scope of special treatment requirements required by NRC regulations.

3:50 P.M.–4:45 P.M.: Discussion of General Design Criteria (Open)—The Committee will hear a presentation by and hold discussions with Mr. Sorensen, ACRS Senior Fellow, regarding his views on risk-informing the General Design Criteria that are included in Appendix A to 10 CFR part 50.

4:45 P.M.–7 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting, as well as a proposed ACRS report on Management Directive 6.4 associated with the revised Generic Safety Issue Process.

Friday, May 11, 2001

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–10 A.M.: Discussion of Topics for Meeting with the NRC Commissioners (Open)—The Committee will discuss topics scheduled for its meeting with the NRC Commissioners.

10:30 A.M.–12:30 P.M.: Meeting with the NRC Commissioners (Open)—The Committee will meet with the NRC Commissioners, Commissioners' Conference Room, One White Flint North to discuss: proposed framework for risk-informed changes to 10 CFR part 50; South Texas Project Exemption Request; Issues Associated with Thermal-Hydraulic Codes; Status Report on Steam Generator Tube Integrity Issues; and Status of ACRS Activities Associated with License Renewal.

1:30 P.M.–2:45 P.M.: Spent Fuel Accident Risk at Decommissioning Nuclear Power Plants (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed options paper on this matter.

3 P.M.–4:30 P.M.: ''Risk-Based Performance Indicators (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the staff's draft document entitled,'Risk-Based Performance Indicators: Results of Phase 1 Development,'' and related matters.

4:50 P.M.–5:30 P.M.: Future ACRS Activities/ Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS.

5:30 P.M.–5:45 P.M.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

5:45 P.M.–7:30 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Saturday, May 12, 2001

8:30 A.M.–12:30 P.M.: Proposed ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

12:30 P.M.—1 P.M.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 11, 2000 (65 FR 60476). In accordance with these procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. James E. Lyons, ACRS, five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting Mr. James E. Lyons prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Mr. James E. Lyons if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting Mr. James E. Lyons (telephone 301–415–7371), between 7:30 a.m. and 4:15 p.m., EDT.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or viewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., EDT, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: April 13, 2001.

Annette Vietti-Cook,

Acting Advisory Committee Management Officer.

[FR Doc. 01–9725 Filed 4–18–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Extension: Rule 15Ba2–1 and Form MSD; Rule 17a–3(a)(16); Rule 17a–4(b)(10); SEC File No. 270–88; SEC File No. 270–452; SEC File No. 270–449; OMB Control No. 3235–0083; OMB Control No. 3235–0508; OMB Control No. 3235–0506]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

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 15Ba2–1 under the Securities Exchange Act of 1934 (''Act'') provides that an application for registration with the Commission by a bank municipal securities dealer must be filed on Form MSD. The Commission uses the information contained in Form MSD to determine whether bank municipal securities dealers meet the standards for registration set forth in the Act, to develop a central registry where members of the public may obtain information about particular bank municipal securities dealers, and to develop statistical information about bank municipal securities dealers.

The staff estimates that approximately 32 respondents will utilize this application procedure annually, with a total burden of 48 hours, based upon past submissions. The staff estimates that the average number of hours necessary to comply with the requirements of Rule 15Ba2–1 is 1.5 hours.

Rule 17a–3(a)(16) under the Act identifies the records to be made by broker-dealers that operate internal broker-dealer systems. Those records are to be used in monitoring compliance with the Commission's financial responsibility program and antifraud and antimanipulative rules, as well as other rules and regulations of the Commission and the self-regulatory organizations. It is estimated that approximately 105 active broker-dealer respondents registered with the Commission incur an average burden of 2,835 hours per year to comply with this rule.

Rule 17a–4(b)(10) under the Act describes the record preservation requirements for those records required to be kept pursuant to Rule 17a–3(a)(16), including how such records should be kept and for how long, to be used in monitoring compliance with the Commission's financial responsibility program and antifraud and antimanipulative rules as well as other rules and regulations of the Commission and the self-regulatory organizations. It is estimated that approximately 105 active broker-dealer respondents registered with the Commission incur an average burden of 315 hours per year to comply with this rule.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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: April 11, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–9709 Filed 4–18–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Extension: Rules 8b–1 to 8b–32; Rule 206(3)–2; SEC File No. 270–135; SEC File No. 270–216; OMB Control No. 3235–0176; OMB Control No. 3235–0243]

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.

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'') has submitted to the Office of Management and Budget requests for extension on the previously approved collections of information discussed below.

Rules 8b–1 to 8b–32 under the Investment Company Act of 1940 (the ''Act'') are the procedural rules an investment company must follow when preparing and filing a registration statement. These rules were adopted to standardize the mechanics of registration under the Act and to provide more specific guidance for persons registering under the Act than the information contained in the statute. For the most part, these procedural rules do not require the disclosure of information. Two of the rules, however, require limited disclosure of information.[1] The information required is necessary to ensure that investors have clear and complete information upon which to base an investment decision. The Commission uses the information that investment companies provide on registration statements in its regulatory, disclosure review, inspection and policy-making roles. The respondents to the collection of information are investment companies filing registration statements under the Act.

The Commission does not estimate separately the total annual reporting and recordkeeping burden associated with Rules 8b–1 to 8b–32 because the burden associated with these rules are included in the burden estimates the Commission submits for the investment company registration statement forms (*e.g.,* Form N–1A, Form N–2, Form N–3, and Form N–4). For example, a mutual fund that prepares a registration statement on Form N–1A must comply with the rules under section 8(b), including rules on riders, amendments, the form of the registration statement, and the number of copies to be submitted. Because the fund only incurs a burden from the section 8(b) rules when preparing a registration statement, it would be impractical to measure the compliance burden of these rules separately. The Commission believes that including the burden of the section 8(b) rules with the burden estimates for the investment company registration statement forms provides a more accurate and complete estimate of the total burdens associated with the registration process.

Investment companies seeking to register under the Act are required to provide the information specified in Rules 8b–1 to 8b–32 if applicable. Responses will not be kept confidential.

Rule 206(3)–2 permits investment advisers to comply with section 206(3) of the Investment Advisers Act of 1940 (''Advisers Act'') by obtaining a blanket consent from a client to enter into agency cross transactions, provided that certain disclosures are made to the client. The information requirements of the rule consist of the following: (1) Prior to obtaining the client's consent, appropriate disclosure must be made to the client as to the practice of, and the conflicts of interest involved in, agency cross transactions; (2) at or before the completion of any such transaction, the client must be furnished with a written confirmation containing specified information and offering to furnish upon request certain additional information; and (3) at least annually, the client must be furnished with a written statement or summary as to the total number of transactions during the period covered by the consent and the total amount of commissions received by the adviser or its affiliated broker-dealer attributable to such transactions.

The Commission uses the information required by Rule 206(3)–2 in connection with its investment adviser inspection program to ensure that advisers are in compliance with the rule. Adviser clients also use the information to monitor agency cross transactions. Without the information collected under the rule, the Commission would be less efficient and effective in its inspection program and clients would not have information available for monitoring the adviser's handling of their accounts.

The Commission estimates that approximately 785 respondents utilize the rule annually, necessitating about 32 responses per respondent each year, for a total of 25,120 responses. Each response requires about .5 hours, for a total of 12,560 hours.

These collections of information are found at 17 CFR 275.206(3)–2 and are necessary in order for the investment adviser to obtain the benefits of Rule 206(3)–2. Commission-registered investment advisers are required to maintain and preserve certain information required under Rule 206(3)–2 for five (5) years. The long-term retention of these records is necessary for the Commission's inspection program to ascertain compliance with the Advisers Act.

The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (1) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and (2) 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: April 9, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–9708 Filed 4–18–01; 8:45 am]

BILLING CODE 8010–01–M

[1] Rule 8b–3 [17 CFR 270.8b–3] provides that whenever a registration form requires the title of securities to be stated, the registrant must indicate the type and general character of the securities to be issued. Rule 8b–22 [17 CFR 270.8b–22] provides that if the existence of control is open to reasonable doubt, the registrant may disclaim the existence of control, but it must state the material facts pertinent to the possible existence of control.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24938; 812–12448]

STI Classic Funds and SunTrust Banks, Inc., Notice of Application

April 13, 2001.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit a series of a registered open-end management investment company to acquire all of

the assets and certain stated liabilities of another series of the same investment company. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

Applicants: STI Classic Funds (''STI Funds'') and SunTrust Banks, Inc. (''SunTrust'').

FILING DATES: The application was filed on February 21, 2001, and amended on April 11, 2001.

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 Commission's Secretary 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 May 8, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609; Applicants, c/o W. John McGuire, Esq., Morgan, Lewis & Bockius LLP, 1800 M Street, NW., Washington, DC 20036–5869.

FOR FURTHER INFORMATION CONTACT: Lidian Pereira, Senior Counsel, at (202) 942–0524 or Mary Kay Frech, Branch Chief, at (202) 952–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. STI Funds, a Massachusetts business trust, is registered under the act as an open-end management investment company. STI Funds offers 36 series, including the Capital Appreciation Fund (the ''Acquiring Fund'') and Core Equity Fund (the ''Acquired Fund'') (the Acquiring Fund and the Acquired Fund together, the ''Funds'').

2. SunTrust, a Georgia corporation, is a bank holding company and parent of Trusco Capital Management Inc. (''Trusco''). Trusco is registered under the Investment Advisers Act of 1940 (the ''Advisers Act'') and serves as the investment adviser to the Funds. Currently, bank subsidiaries of SunTrust own in the aggregate, in a fiduciary capacity, 25% or more of the outstanding voting securities of each Fund.

3. On February 20, 2001, the board of trustees of STI Funds, (the ''Board''), including all of the trustees who are not ''interested persons'' (as defined in section 2(a)(19) of the Act) (''Independent Trustees''), approved a plan of reorganization between the Acquiring Fund and the Acquired Fund (the ''Plan''). Under the Plan, on the date of exchange (''Closing Date''), which is currently anticipated to be on or about May 21, 2001, the Acquiring Fund will acquire all the assets and certain stated liabilities of the Acquired Fund in exchange for shares of the Acquiring Fund (the ''Reorganization''). The shares of the Acquiring Fund exchanged will have an aggregate net asset value equal to the aggregate net asset value of the Acquired Fund's shares determined as of the close of business on the business day immediately before the Closing Date. The net asset values of the Funds will be determined in the manner set forth in each of the Funds' current prospectuses and statements of additional information. As soon as is reasonably practicable after the Closing Date, the Acquired Fund will distribute *pro rata* the shares of the Acquiring Fund to its shareholders and terminate.

4. Applicants state that the investment objectives, policies and restrictions of the Acquired Fund are substantially similar to that of the Acquiring Fund. Both the Acquired Fund and the Acquiring Fund offer Trust Shares and Flex Shares.[1] Trust Shares are not subject to a front-end sales load, a contingent deferred sales charge (''CDSC'') or a rule 12b–1 distribution fee. Flex Shares are not subject to a front-end sales load, but are subject to a CDSC and a rule 12b–1 distribution fee. Shareholders of Trust or Flex Shares of the Acquired Fund will receive corresponding shares of the Acquiring Fund. The one year holding period used to determine whether a CDSC will apply to a holder of Flex Shares of the Acquiring Fund who becomes a shareholder as a result of the Reorganization will include any period of time that the shareholder held shares of the Acquired Fund. No sales charge will be imposed in connection with the Reorganization. Any expenses incurred in connection with the Reorganization will be borne by Trusco.

5. The Board, including all of the Independent Trustees, determined that the Reorganization is in the best interests of the shareholders of each Fund, and that the interests of existing shareholders of each Fund will not be diluted as a result of the Reorganization. In assessing the Reorganization, the Board considered a number of factors, including: (a) The terms and conditions of the Reorganization; (b) the tax-free nature of the Reorganization; (c) the compatibility of the investment objectives, policies and limitations of the Acquired Fund and the Acquiring Fund; (d) the expense ratios of the Acquired Fund and the Acquiring Fund; and (e) the potential economies of scale to be gained from the Reorganization.

6. The consummation of the Reorganization is subject to a number of conditions precedent, including: (a) The approval of the Reorganization by the shareholders of the Acquired Fund; (b) STI Funds' receipt of an opinion of counsel that the Reorganization will be tax-free for STI Funds and its shareholders; and (c) the applicants' receipt from the Commission of an exemption from section 17(a) of the Act for the Reorganization. The Plan may be terminated and the Reorganization abandoned at any time prior to the Closing Date by the Board or any authorized officer of the STI Funds if it is determined that circumstances have changed to make the Reorganization inadvisable. Applicants agree not to make any material changes to the Plan without prior Commission approval.

7. Definitive proxy materials have been filed with the Commission and are scheduled to be mailed to shareholders on or about April 19, 2001. A special meeting of shareholders of the Acquired Fund is scheduled for May 18, 2001.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities or the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by or under common control

[1] The Acquiring Fund also offers Investor Shares, but these shares are not involved in the Reorganization.

with the other person, and (d) if the other person is an investment company, any investment adviser of that company. Applicants state that the Funds may be deemed affiliated persons and, thus, the Reorganization may be prohibited by section 17(a).

2. Rule 17a–8 under the Act exempts from he prohibitions of section 17(a) of the Act mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied. Applicants believe that rule 18a–8 may not be available in connection with the Reorganization because the Funds may be deemed to be affiliated for reasons other than those set forth in the rule. Applicants state that subsidiary banks of SunTrust own in the aggregate, as a fiduciary, 25% or more of the outstanding voting securities of each Fund; therefore, SunTrust may be deemed to be an affiliated person of the Funds, resulting in the Acquired Fund being an affiliated person of an affiliated person of the Acquiring Fund. Applicants also state that the Funds, by virtue of the above ownership, may be deemed to be under common control and therefore affiliated persons of each other.

3. Section 17(b) of the Act provides, in relevant part, that the Commission may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

4. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) of the Act to the extent necessary to complete the Reorganization. Applicants submit that the Reorganization satisfies the standards of section 17(b) of the Act. Applicants state that the terms of the proposed Reorganization are fair and reasonable and do not involve overreaching. Applicants state that the investment objectives and policies of the Acquired Fund are substantially similar to those of the Acquiring Fund. Applicants also state that the Board, including all of the Independent Trustees, has made the requisite determinations that the participation of the Acquired and Acquiring Funds in the Reorganization is in the best interests of each Fund and that such participation will not dilute the interests of the existing shareholders of each Fund. In addition, Applicants state that the Reorganization will be on the basis of relative net asset value.

For the Commission by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–9710 Filed 4–18–01; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34029]

Archer-Daniels-Midland Company—Control Exemption—BQ Railroad Company and Iowa Interstate Railroad, Ltd.

Archer-Daniels-Midland Company (ADM), a noncarrier, has filed a notice of exemption to indirectly control two carriers, BQ Railroad Company (BQRR), a Class III railroad, and Iowa Interstate Railroad, Ltd. (IAIS), a Class II railroad.[1]

The transaction was scheduled to be consummated on or shortly after April 6, 2001, the effective date of the exemption (7 days after the exemption was filed).

This transaction is related to STB Finance Docket No. 34028, *BQ Railroad Company—Acquisition and Operation Exemption—Certain Lines of The Burlington Northern and Santa Fe Railway Company,* wherein BQRR is seeking an exemption to acquire and operate approximately 1.64 miles of rail line at Rogers, in Barnes County, ND, purchased by its parent company B–Q from The Burlington Northern and Santa Fe Railway Company.

ADM states that: (i) These railroads do not connect with each other; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

To ensure that all employees who may be affected by the transaction are provided protection as required by 49 U.S.C. 10502(g) and 11326(b), the labor protective conditions proposed by the applicants will be imposed as follows:

. . . a fair arrangement at least as protective of the interests of employees who are affected by the transaction as the terms imposed under section 5(2)(f) of the Interstate Commerce Act before February 5, 1976, and the terms established under Section 24706(c) of Title 49, United States Code, except that such arrangement shall be limited to one year of severance pay, which shall not exceed the amount of earnings from the rail employment of that employee during the 12-month period immediately preceding the date of this application. The amount of such severance pay shall be reduced by the amount of earnings from railroad employment of that employee with the acquiring carrier during the 12-month period immediately following the effective date of the transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34029, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Andrew P. Goldstein, McCarthy, Sweeney & Harkaway, P.C., Suite 600, 2175 K Street, NW., Washington, DC 20037.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: April 12, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–9588 Filed 4–18–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34028]

BQ Railroad Company—Acquisition and Operation Exemption—Certain Lines of The Burlington Northern and Santa Fe Railway Company

BQ Railroad Company (BQRR), a noncarrier,[1] has filed a notice of

[1] ADM owns 60.6% of the common stock of Heartland Railroad Corporation, a noncarrier holding company, which in turn owns 80.1% of the common stock of IAIS, which operates in the States of Iowa and Illinois. ADM also indirectly controls Benson-Quinn Company (B–Q), which in turn controls BQRR.

[1] BQRR is a wholly owned subsidiary of Benson-Quinn Company (B–Q). B Q has entered into an agreement with BNSF to purchase BNSF's interests

exemption under 49 CFR 1150.31 to acquire (by purchase) The Burlington Northern and Santa Fe Railway Company's (BNSF) interests in, and to operate, approximately 1.64 miles of rail line between milepost 8.0 and milepost 9.64 at Rogers, in Barnes County, ND, with a retention of trackage rights by BNSF over the entire line, including the right to serve customers on the line. BQRR certifies that its projected revenues will not exceed those that would qualify it as a Class III rail carrier.

The transaction was scheduled to be consummated on or shortly after April 6, 2001, the effective date of the exemption (7 days after the exemption was filed).

This transaction is related to STB Finance Docket No. 34029, *Archer-Daniels-Midland Company—Control Exemption—BQ Railroad Company and Iowa Interstate Railroads, Ltd.,* wherein Archer-Daniels-Midland Company is seeking an exemption to continue in control of BQRR upon its becoming a Class III rail carrier.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34028, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Andrew P. Goldstein, McCarthy, Sweeney & Harkaway, P.C., Suite 600, 2175 K Street, NW., Washington, DC 20037.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

By the Board, David M. Konschnik, Director, Office of Proceedings.

Decided: April 12, 2001.

Vernon A. Williams,

Secretary.

[FR Doc. 01–9587 Filed 4–18–01; 8:45 am]

BILLING CODE 4915–00–P

in the above-described rail line. B–Q has assigned its rights and obligations under the agreement to BQRR to be the common carrier operator of the rail line. BQRR states that it may enter into an agreement with B-Q to allow a portion of the trackage to be used for industrial switching when doing so does not interfere with common carrier operations.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 173X)]

Union Pacific Railroad Company—Abandonment Exemption—in McLennan County, TX

On March 30, 2001, the Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board), a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad known as the Gatesville Industrial Lead, extending from milepost 685.90 to the end of the line at milepost 686.60 at Atco (Waco), TX, a distance of 0.70 miles in McLennan County, TX. There are no stations on the line, which traverses U. S. Postal Service Zip Code 76712.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interests of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by July 18, 2001.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than May 9, 2001. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub-No. 173X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001, and (2) James P. Gatlin, 1416 Dodge Street, Room 830, Omaha, NE 68179–0830. Replies to the exemption petition are due May 9, 2001.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact SEA. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available at our website at ''WWW.STB.DOT.GOV''.

Decided: April 11, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–9499 Filed 4–18–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of Customs duties. For the quarter beginning April 1, 2001, the interest rates for overpayments will be 7 percent for corporations and 8 percent for non-corporations, and the interest rate for underpayments will be 8 percent. This notice is published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: April 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ronald Wyman, Accounting Services Division, Accounts Receivable Group, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278, (317) 298–1200, extension 1349.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub.L. 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the short-term Federal rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2001–16 (*see*, 2001–13 IRB 136, dated March 26, 2001), the IRS determined the rates of interest for the third quarter of fiscal year (FY) 2001 (the period of April 1—June 30, 2001). The interest rate paid to the Treasury for underpayments will be the short-term Federal rate (5%) plus three percentage points (3%) for a total of eight percent (8%). For corporate overpayments, the rate is the Federal short-term rate (5%) plus two percentage points (2%) for a total of seven percent (7%). For overpayments made by non-corporations, the rate is the Federal short-term rate (5%) plus three percentage points (3%) for a total of eight percent (8%). These interest rates are subject to change the fourth quarter of FY–2001 (the period of July 1—September 30, 2001).

For the convenience of the importing public and Customs personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of Customs duties, is published in summary format.

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate Over-pay (Eff. 1–1–99) (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7

Dated: April 13, 2001.

Charles W. Winwood,

Acting Commissioner of Customs.

[FR Doc. 01–9647 Filed 4–18–01; 8:45 am]

BILLING CODE 4820–02–P

Federal Register

Thursday,
April 19, 2001

Part II

Department of Education

Recreational Programs; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001; Notice

DEPARTMENT OF EDUCATION

RIN 1820–ZA12

Recreational Programs

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of final priority.

SUMMARY: The Assistant Secretary for the Office of Special Education and Rehabilitative Services announces a final priority under the Recreational Programs. The Assistant Secretary may use this priority for competitions in FY 2001 and later years. We take this action to provide individuals with disabilities recreational activities and related experiences to aid in their employment, mobility, socialization, independence, and community integration.

EFFECTIVE DATE: This priority is effective May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Mary E. Chambers, U.S. Department of Education, 400 Maryland Avenue, SW., room 3320, Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–8435 or via Internet: Mary.Chambers@ed.gov

If you use a telecommunications device for the deaf (TDD) you may call the Federal Information Relay Service (FIRS) at 1–800–877–8399.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

This notice contains a final priority under the Recreational Programs, which is authorized under section 305 of the Rehabilitation Act of 1973, as amended (the Act). On January 8, 2001 we published a notice of proposed priority for this program in the **Federal Register** (66 FR 1442). There are no differences between the notice of proposed priority and this notice of final priority.

Analysis of Comments and Changes

In response to our invitation in the notice of proposed priority 15 parties submitted comments on the proposed priority. Twelve commenters supported the priority. An analysis of the substantive comments and of any changes in the priority since publication of the notice of proposed priority follows.

Comment: One commenter recommended that independent living skills and related services and opportunities be added to the list of optional services under the Recreational Programs.

Discussion: Section 305 of the Act supports projects that provide individuals with disabilities recreational activities and related experiences that aid in their employment, mobility, socialization, independence, and community integration. The proposed priority stated that recreational services include, but are not limited to, the activities authorized by the program statute. Thus, because the examples of recreational activities provided in the proposed priority were not inclusive of the recreational activities allowable under this program authority, independent living skills and related activities are also allowable.

Change: None.

Comments: Two commenters recommended that the Recreational Programs be available to children to experience scouting activities, hydrotherapy/aquatics, and other recreational activities.

Discussion: According to 34 CFR 361.42(c)(2)(ii)(A), States must apply the eligibility requirements for vocational rehabilitation services without regard to the age of the applicant. However, according to 34 CFR 361.42(a)(2), there is also a presumption in the Act that the applicant can benefit in terms of an employment outcome from the provision of vocational rehabilitation services. In order for a client to benefit in terms of an employment outcome, the age of a client must be appropriate. Therefore, the burden is on the applicant to identify how any children to be served would benefit in terms of an employment outcome from the recreational services to be provided by the applicant.

Change: None.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Priority

Under 34 CFR 75.105(c)(3) the Assistant Secretary gives an absolute preference to applications that meet the following priority. The Assistant Secretary funds under this competition only applications that meet this absolute priority.

Projects must provide recreational services to individuals with disabilities. Recreational services include, but are not limited to, vocational skills development, leisure education, leisure networking, leisure resource development, physical education and sports, scouting and camping, 4–H activities, music, dancing, handicrafts, art, and homemaking. Recreational services do not include the construction of facilities for aquatic rehabilitation therapy.

Projects must provide recreational services to individuals with disabilities in settings with peers who are not individuals with disabilities.

Statutory Requirements

All applicants seeking funding under this competition must—

(a) Describe the manner in which the applicant will address the needs of individuals with disabilities from minority backgrounds (section 21(c) of the Act);

(b) Describe the manner in which the findings and results of the project to be funded under the grant, particularly information that facilitates the replication of the results of that project, will be made generally available (section 305(a)(4)(A) of the Act);

(c) Demonstrate ways in which recreational activities assist in maximizing the independence and integration of individuals with disabilities into community-based recreational programs (section 305(a)(1)(C) if the Act);

(d) Assure that the project will maintain, at a minimum, the same level of services over the three-year project period (section 305(a)(5) of the Act);

(e) Assure that the service program funded under the grant will be continued after Federal assistance ends (section 305(a)(4)(B) of the Act); and

(f) Provide non-Federal resources (in cash or in-kind) to pay the non-Federal share cost of the project in year two at 25 percent of year one Federal grant and year three at 50 percent of year one Federal grant (section 305(a)(3)(B) of the Act).

National Education Goals

The eight National Education Goals focus the Nation's education reform efforts and provide a framework for improving teaching and learning.

This priority addresses the National Education Goal that every American will possess the knowledge and skills necessary to compete in a global economy.

Executive Order 12866

This notice of final priority has been reviewed in accordance with Executive Order 12866. Under the terms of the order we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of final priority are those resulting from statutory requirements and those we have determined as

necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of final priority, we have determined that the benefits of the final priority justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

We fully discussed the costs and benefits in the notice of proposed priority.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register,** in text or Adobe Portable Document Format (PDF) on the Internet at the following site:

www.ed.gov/legislation/FedRegister

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at:

http://www.access.gpo.gov/nara/index.html

Program Authority: 29 U.S.C. 775.

(Catalog of Federal Domestic Assistance Number 84.128J Recreational Programs.)

Dated: April 13, 2001

Francis V. Corrigan,

Deputy Director, National Institute on Disability, and Rehabilitation Research.

[FR Doc. 01–9653 Filed 4–18–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.128J]

Recreational Programs; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001

Purpose of Program: To provide grants for recreational programs providing individuals with disabilities recreational activities and related experiences to aid in their employment, mobility, socialization, independence, and community integration.

Eligible Applicants: States, public agencies, and nonprofit private organizations.

SUPPLEMENTARY INFORMATION: Funds under this competition will be used to support projects in FY 2001. The Assistant Secretary may consider funding approved applications submitted in FY 2001 to support projects in later years.

Applications Available: April 30, 2001.

Deadline for Transmittal of Applications: June 29, 2001.

Deadline for Intergovernmental Review: August 28, 2001.

Available Funds: $803,607.

Estimated Range of Awards: $134,000–$140,000.

Estimated Average Size of Awards: $130,000.

Estimated Number of Awards: 6.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priorities

Absolute Priority

This competition focuses on projects designed to meet the absolute priority in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register.** Under 34 CFR 75.105(c)(3) we consider only applications that meet the absolute priority.

Competitive Preference Priority

Within the absolute priority for this competition for FY 2001, this competition focuses on projects designed to meet the competitive preference priority in the notice of final competitive preference for this program, published in the **Federal Register** on November 22, 2000 (65 FR 70408). Under 34 CFR 75.105(c)(2)(i) we award up to an additional 10 points to an application, depending on the extent to which the application meets the competitive preference priority.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs via its Web site:

http://www.ed.gov/pubs/edpubs.html

Or you may contact ED Pubs at its e-mail address:

edpubs@inet.ed.gov

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.128J.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8351. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Mary E. Chambers, U.S. Department of Education, 400 Maryland Avenue, SW., room 3322, Switzer Building, Washington, DC 20202–2647. Telephone (202) 205–8435. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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Program Authority: 29 U.S.C. 775.

Dated: April 13, 2001.

Francis V. Corrigan,

Deputy Director, National Institute on Disability, and Rehabilitation Research.

[FR Doc. 01–9654 Filed 4–18–01; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Thursday,
April 19, 2001

Part III

Department of Education

American Indian and Alaska Native Education Research Grant Program; Notice

DEPARTMENT OF EDUCATION

American Indian and Alaska Native Education Research Grant Program

AGENCY: Office of Educational Research and Improvement, Department of Education.

ACTION: Notice of proposed priority.

SUMMARY: The Secretary proposes a priority for an American Indian and Alaska Native Education Research Grant Program to fund research that will evaluate the role of Native language and culture in the development of educational strategies for improving achievement and academic progress of American Indian and Alaska Native students. The Secretary may use this priority for competitions in fiscal year (FY) 2001 and in later fiscal years.

DATES: We must receive your comments on or before May 21, 2001.

ADDRESSES: Address all comments about this proposed priority to Karen Suagee, U.S. Department of Education, 555 New Jersey Avenue, NW., room 610B, Washington, DC 20208–5521. If you prefer to send your comments through the Internet, use the following address: comments@ed.gov.

You must include the term Indian Education Research in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Karen Suagee. Telephone: (202) 219–2244 or via Internet: karen_suagee@ed.gov

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding this proposed priority. We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority in room 610B, 555 New Jersey Avenue, NW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed priority. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Background

The Office of Educational Research and Improvement (OERI) and the Office of Indian Education (OIE), within the Office of Elementary and Secondary Education (OESE), support educational research and development activities that improve the educational achievement and academic progress of American Indian and Alaska Native students. Under section 9141 of the Elementary and Secondary Education Act (the national research program's authorities), the Department is authorized to fund research, evaluation, and data collection to provide information on the status of education for the Indian population and on the effectiveness of Indian Education Programs. Section 9141 further provides that the research activities funded under this authority shall be carried out in consultation with OERI.

Pursuant to this authority and in response to Executive Order 13096, entitled ''American Indian and Alaska Native Education'', OIE and OERI are collaborating to conduct their first grant competition. Moreover, pursuant to a Memorandum of Understanding between OESE and OERI, OERI will conduct and administer the competition.

The Executive Order requires the Department to develop and implement a comprehensive research agenda designed to improve the academic achievement and school retention of American Indian and Alaska Native students. The research agenda is to address three goals: (1) To establish baseline data on academic achievement and retention of American Indian and Alaska Native students in order to monitor improvements; (2) to evaluate promising practices used with those students; and (3) to evaluate the role of native language and culture in the development of educational strategies. Work on the research agenda is in progress. When the agenda is completed, the Secretary may establish additional priorities for grant competitions under this authority in FY 2002 and later years. During the interim period, the Secretary is proposing an absolute priority to address one of the agenda goals: evaluating the role of language and culture in developing educational strategies.

Prior to this announcement and in conjunction with planning for the development of a research agenda for American Indian and Alaska Native education, OIE and OERI engaged in a series of meetings and regional hearings to solicit advice from parents, teachers, administrators, tribal leaders, and researchers to identify high-priority research concerns. OIE and OERI considered these concerns in preparing this notice of proposed priority.

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this proposed priority, we will invite applications through a notice in the **Federal Register**.

Proposed Priority—Evaluating the Role of Language and Culture in Developing Educational Strategies

Background: Recent research points to the degree of fit, or congruence, between the cultural contexts of home and school as a factor influencing academic and social development outcomes of students. These outcomes include, but are not limited to, academic achievement, reduced dropout rate, school engagement, responsible behavior (taking into account tribal values), attendance, and high school completion. The research suggests that achieving positive academic and social outcomes for students from diverse linguistic and cultural backgrounds may be enhanced by incorporating native language and culture in the development of educational strategies.

Family and community involvement in education is also vital to the academic and social development of students. For schools serving students from diverse linguistic and cultural backgrounds, the research also suggests that strong family and community

collaboration with schools that reflects the language and culture of the community may support the efforts of schools to enhance student achievement and social development. The Secretary wishes to determine the extent to which, and the ways in which, incorporating native language and culture in educational strategies (including strong family and community collaboration with schools), contributes to the attainment of these positive academic and social outcomes for American Indian and Alaska Native students.

Absolute Priority: Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet the priority in the next paragraph. Funding this priority will depend on the availability of funds, the nature of the final priority, and the quality of applications received. There will be only one grant competition addressing this priority. Therefore, each applicant will compete against all applicants under this competition.

The Secretary proposes to fund only applicants that propose to expand the current research base for pre-kindergarten through secondary level education of American Indian and Alaska Native students, in both rural and urban settings, by addressing the following research question:

To what extent and in what ways does incorporating native language and culture in educational strategies affect either academic achievement or social development of American Indian and Alaska Native students, or both? In addressing this question applicants must take into account other factors that may affect these outcomes, such as curriculum and instruction, standards and assessment, school and classroom settings, teacher professional development, and family and community collaboration with schools.

The research proposed in the application should—

a. Incorporate a well-conceptualized and theoretically sound framework;

b. Incorporate a rigorous design that is capable of generating findings that contribute substantially to understanding in the field;

c. Link previous research, theory, and findings to the proposed study;

d. Conduct work of sufficient size, scope, and duration to produce generalizable results;

e. Contribute to the advancement of knowledge; and

f. Provide for a dissemination plan that will facilitate effective use of the research by educators, community members, policy makers, and other interested parties.

Preference for Indian Organizations

Eligible entities for the national research program authorized under section 9141 of the Elementary and Secondary Education Act (20 U.S.C. 7861) are Indian Tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions. We want to advise the public that the statute requires the Secretary to give a preference to Indian Tribes, Indian organizations, and Indian institutions of higher education in awarding research grants authorized under section 9141. (Section 9153; 20 U.S.C. 7873.)

The Secretary will award 5 extra points to applications submitted by the entities entitled to the statutory preference. We are not taking public comment on the manner in which the Secretary is carrying out the preference; rather, we want to give the public as much advance notice as possible as to the eligible parties and the existence of this preference. In addition, we want to advise the public that a consortium application of eligible entities that includes an Indian Tribe, Indian organization or Indian institution of higher education would be considered eligible to receive the extra 5 points.

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Program Authority: 20 U.S.C. 7861 and 7873 and section 931 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6031.)

(Catalog of Federal Domestic Assistance Number: 84.306N American Indian and Alaska Native Education Research Grant Program)

Dated: April 16, 2001.

Sue Betka,

Deputy Assistant Secretary, Office of Educational Research and Improvement.

[FR Doc. 01–9738 Filed 4–18–01; 8:45 am]

BILLING CODE 4000–01–P

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Thursday, April 19, 2001

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H.R. 132/P.L. 107–6

To designate the facility of the United States Postal Service located at 620 Jacaranda Street in Lanai City, Hawaii, as the ''Goro Hokama Post Office Building''. (Apr. 12, 2001; 115 Stat. 8)

H.R. 395/P.L. 107–7

To designate the facility of the United States Postal Service located at 2305 Minton Road in West Melbourne, Florida, as the ''Ronald W. Reagan Post Office of West Melbourne, Florida''. (Apr. 12, 2001; 115 Stat. 9)

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