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

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

7 CFR Part 1942

RIN 0570–AA32

Rural Business Enterprise Grants and Television Demonstration Grants

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: The Rural Business-Cooperative Service (RBS) is amending the Rural Business Enterprise Grant (RBEG) Program regulation by revising the definition of small and emerging private business enterprise. The current definition burdens the grantee by placing too many eligibility restrictions on the businesses to be assisted by the grantee. This amendment will ensure the grantee can assist small businesses in rural areas without eligibility restrictions for the use of technological innovations or commercialization of new products or processes.

DATES: Effective May 16, 2001. Comments must be received on or before July 16, 2001.

Applicability Date: The small business definition change will be retroactive starting August 11, 1988.

ADDRESSES: Written comments may be submitted, in duplicate, to the Regulations and Paperwork Management Branch, Attention Cheryl Thompson, Rural Development, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742. Comments may be submitted via the Internet by addressing them to *comments@rus.usda.gov* and must contain the word ''small'' in the subject. All written comments will be available for public inspection during normal working hours at 300 E Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Amy Cavanaugh, Rural Development Specialist, Specialty Lenders Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3225, 1400 Independence Ave. SW., Washington, DC 20250, Telephone (202) 690–2516. The TTD number is (800) 877–8339 or (202) 708–9300.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be non-significant and has not been reviewed by the Office of Management and Budget.

Programs Affected

The Catalog of Federal Domestic Assistance number for the program impacted by this action is 10.769, Rural Development Grants.

Paperwork Reduction Act

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

Intergovernmental Review

The RBEG Program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. RBS will conduct intergovernmental consultation in the manner delineated in RD Instruction 1940–J, ''Intergovernmental Review of Rural Development Programs and Activities,'' and in 7 CFR part 3015, subpart V.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–602), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

Civil Justice Reform

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) retroactive effect will be given to this rule starting August 11, 1988; and (3) administrative proceedings in accordance with the regulations of the Agency at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' RBS has determined that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* an Environmental Impact Statement is not required.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, RBS must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires RBS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for state, local, and tribal governments or the private sector. Thus this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Background

This regulatory package is an Agency initiative to make the RBEG Program more effective at stimulating economic development by reducing certain eligibility requirements for small and emerging private business enterprise (small business) located in rural areas.

There has been much confusion on the definition of small business since it was first published in the **Federal Register**, August 11, 1988. At that time, the RBEG Program was called the Industrial Development Grant Program. The name of the program was changed in 1992 and still contained the small business definition. The RBEG Program has been administered by two separate agencies since inception of the program. The Farmers Home Administration (FmHA) originally administered the RBEG Program. In 1996, it was transferred to RBS. FmHA misinterpreted the definition of small business in its regulations as only needing to meet the first two parts of the definition in order to be eligible for assistance and funded grants based on this misinterpretation. RBS has recently determined the FmHA interpretation is not consistent with the actual regulatory language. Therefore, the Agency wants to correct the definition language and make it retroactive starting August 11, 1988, so the reversed definition will be applicable to existing grants. Retroactive application of the definition will validate existing grants, which might not otherwise have been eligible under a strict application of the regulatory criteria defining a small business. This will ultimately streamline the regulation and reduce the burden to the applicant in meeting the restricted definition.

Discussion of Interim Final Rule

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. However, it would be contrary to the public interest to wait for public comment before implementing the revision to the small business definition. There is an immediate need to provide funds to the public to help alleviate the lack of money available for economic development in rural areas and to alleviate confusion caused by past misinterpretation and misapplication of regulatory requirements. Using the FmHA interpretation of the small business definition will allow more small businesses to stimulate the economy and provide jobs. Comments will be accepted for 60 days after publication of this interim final rule and will be considered in the development of the final rule.

List of Subjects in 7 CFR Part 1942

Business and industry, Grant programs—Housing and community development, Industrial park, Rural areas.

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

PART 1942—ASSOCIATIONS

1. The authority citation for part 1942 is revised to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1932, 7 U.S.C. 1989, and 16 U.S.C. 1005.

Subpart G—Rural Business Enterprise Grants and Television Demonstration Grants

2. Section 1942.304 is amended by revising the definition of *small and emerging private business enterprise* to read as follows:

§ 1942.304 Definitions.

* * * * *

Small and emerging private business enterprise. Any private business which will employ 50 or fewer new employees and has less than $1 million in projected gross revenues.

* * * * *

Dated: May 9, 2001.

Dawn R. Riley,

Acting Deputy Under Secretary.

[FR Doc. 01–12249 Filed 5–15–01; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–72–AD; Amendment 39–12230; AD 2001–10–04]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. AT–400, AT–500, and AT–800 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 2000–14–51, which requires inspection of the wing lower spar cap for cracks on Air Tractor, Inc. (Air Tractor) Models AT–501, AT–502, and AT–502A airplanes, and modification or replacement of any cracked wing lower spar cap. This AD lowers the safe life for the wing lower spar cap on Air Tractor AT–400, AT–500, and AT–800 series airplanes. This AD is the result of numerous reports of cracks in the ⅜-inch bolthole of the wing lower spar cap on the affected airplanes. The actions specified by this AD are intended to prevent fatigue cracks from occurring in the wing lower spar cap before the originally established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in the wing separating from the airplane during flight.

DATES: This AD becomes effective on June 8, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of June 8, 2001.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before July 13, 2001.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–72–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374. You may look at this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–72–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rob Romero, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

Several reports of cracked wing lower spar caps on Air Tractor AT–400, AT–500, and AT–800 series airplanes have caused the manufacturer (Air Tractor) to recalculate the fatigue life of the wing lower spar cap on these airplanes. One report was an accident where the wing separated from the airplane during flight. The cracks are originating in the outboard ⅜-inch bolthole of the wing lower spar cap.

Air Tractor fatigue tested 24 wings and all had cracks in the area of the ⅜-inch bolthole. Follow-on field inspections revealed more cracks in this area.

What Are the Consequences if the Condition Is Not Corrected?

This condition could result in fatigue cracks in the wing lower spar cap before the originally established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and

corrected, could result in the wing separating from the airplane during flight.

Is There Service Information That Applies to This Subject?

Air Tractor has issued the following:

—Snow Engineering Company Service Letter #197, Revised March 26, 2001, which applies to certain Models AT–501, AT–502, and AT–502A airplanes;
—Snow Engineering Company Service Letter #202, Revised March 26, 2001, which applies to certain Models AT–400, AT–401, AT–401B, AT–402, AT–402A, and AT–402B airplanes;
—Snow Engineering Company Service Letter #203, Revised March 26, 2001, which applies to certain Models AT–802 and AT–802A airplanes; and
—Snow Engineering Company Service Letter #205, Revised March 26, 2001, which applies to certain Models AT–501, AT–502, AT–502B, and AT–503A airplanes.

These service letters include procedures for inspecting and replacing/modifying the wing lower spar cap on the affected airplanes.

The FAA's Determination and an Explanation of the Provisions of This AD

What Has FAA Decided?

The FAA has reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Air Tractor AT–400, AT–500, and AT–800 series airplanes of the same type design;
—The actions specified in the previously-referenced service information (as specified in this AD) should be accomplished on the affected airplanes; and
—AD action should be taken in order to correct this unsafe condition.

What Does This AD Require?

This AD lowers the safe life for the wing lower spar cap on Air Tractor AT–400, AT–500, and AT–800 series airplanes. This AD also allows for inspection, using eddy current methods, of the wing lower spar cap for airplanes that are at or over the lower safe life and parts are not available. Operation of the airplane is not allowed if cracks are found and inspections must be terminated when parts become available or after performing three repetitive inspections.

This AD supersedes AD 2000–14–51, Amendment 39–11837 (65 FR 46567, July 31, 2000), which currently requires inspection of the wing lower spar cap for cracks on Air Tractor Models AT–501, AT–502, and AT–502A airplanes, and modification or replacement of any cracked wing lower spar cap.

Will I Have the Opportunity to Comment Prior to the Issuance of the Rule?

Because the unsafe condition described in this document could result in possible separation of the wing from the airplane during flight, FAA finds that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How do I Comment on This AD?

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, we invite your comments on the rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date specified above. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

Are There any Specific Portions of the AD I Should Pay Attention To?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

We are reviewing the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clear, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.plainlanguage.gov.

How Can I Be Sure FAA Receives my Comment?

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–72–AD.'' We will date stamp and mail the postcard back to you.

Regulatory Impact

Does This AD Impact Various Entities?

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

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing AD 2000–14–51, Amendment 39–11837 (65 FR 46567, July 31, 2000), and by adding a new airworthiness directive (AD) to read as follows:

2001–10–04 Air Tractor, Inc.: Amendment 39–12230; Docket No. 2000–CE–72–AD; Supersedes AD 2000–14–51, Amendment 39–11837.

(a) *What airplanes are affected by this AD?* The following presents the airplanes (certificated in any category) that are affected by this AD, along with the new safe life limit (presented in hours time-in-service (TIS)) of the wing lower spar cap for all airplane models and serial numbers:

Model	Serial numbers	Safe life
AT–400	All serial numbers beginning with 0416	13,300 hours TIS.
AT–401	0662 through 0951	10,757 hours TIS.
AT–401B	0952 through 1014 and 1016 though 1020	6,948 hours TIS.
AT–401B	1015 and 1021 through 1124	7,777 hours TIS.
AT–402	0694 through 0951	7,440 hours TIS.
AT–402A	0738 through 0951	7,440 hours TIS.
AT–402A	0952 through 1020	4,589 hours TIS.
AT–402B	0966 through 1020	4,589 hours TIS.
AT–402A	1021 through 1124	5,268 hours TIS.
AT–402B	1021 through 1124	5,268 hours TIS.
AT–501	0002 through 0061	4,531 hours TIS.
AT–501	All serial numbers beginning with 0062	7,693 hours TIS.
AT–502	0003 through 0236	4,000 hours TIS.
AT–502A	0158 through 0618	3,000 hours TIS.
AT–502B	0187 through 0618	4,000 hours TIS.
AT–503A	All serial numbers beginning with 0067	4,000 hours TIS.
AT–802	0001 through 0059	4,132 hours TIS.
AT–802A	0003 through 0059	4,969 hours TIS.
AT–802	0060 through 0091	4,188 hours TIS.
AT–802	0092 through 0101 except those equipped with the factory-supplied part number 80540 computerized fire gate.	8,163 hours TIS.
AT–802A	0060 through 0091 except those equipped with the factory-supplied part number 80540 computerized fire gate.	4,531 hours TIS.
AT–802A	0092 through 0101 except those equipped with the factory-supplied part number 80540 computerized fire gate.	8,648 hours TIS.

Note 1: Piston powered aircraft that have been converted to turbine power should use the limits for corresponding serial number turbine-powered aircraft.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent fatigue cracks from occurring in the wing lower spar cap before the originally established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in the wing separating from the airplane during flight.

(d) *What must I do to address this problem?* To address this problem, you must accomplish the following actions:

Action	Compliance time	Procedures
(1) Modify the applicable aircraft records as follows to show the reduced safe life for the wing lower spar cap (that is specified in the table in paragraph (a) of this AD): (i) For the affected Models AT–802 and AT–802A airplanes: update the Owners Manual, Section 6—Airworthiness Limitations, Life Limited Parts. (ii) For all affected airplanes other than the Models AT–802 and AT–802A airplanes: incorporate the following into the Aircraft Logbook ''In accordance with AD **–**–**, the wing lower spar cap is life limited to _____ (insert the applicable safe life number from the chart in paragraph (a) of this AD). (iii) If, as of the time of the logbook entry requirements of paragraph (d)(1) of this AD, your airplane is over or within 10 hours of the safe life limit, an additional 10 hours TIS is allowed to accomplish the replacement/modification.	Accomplish the logbook entry within the next 10 hours TIS after June 8, 2001, (the effective date of this AD). An additional 10 hours TIS to accomplish the modification/replacement is allowed if you are already over the safe life limit.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may modify the aircraft records as specified in paragraphs (d)(1)(i) and (d)(1)(ii) of this AD. Make an entry into the aircraft records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regualtions (14 CFR 43.9). Accomplish the actual replacements/modifications in accordance with Snow Engineering Service Letter #197, #202, #203, or #205, all Revised March 26, 2001, as applicable.
(2) If you have ordered parts from the factory when it is time to replace the wing lower spar cap (as required per the logbook safe life reduction in paragraph (d)(1) of this AD), but the parts are not available, inspect, using eddy current methods, the wing lower spar cap. These inspections are allowed until one of the following occurs, at which time the replacement/modification (required when the lower spar cap has reached its safe life) must be accomplished: (i) Crack(s) is/are found;	Prior to further flight after ordering the parts and therafter at intervals not to exceed 400 hours TIS until one of the criteria in paragraphs (d)(2)(i), (d)(2)(ii), and (d)(2)(iii) of this AD is met.	In accordance with the procedures in Snow Engineering Service Letter #197, #202, #203, or #205, all Revised March 26, 2001, as applicable.

Action	Compliance time	Procedures
(ii) Parts become available from the manufacturer; or (iii) Not more than three inspections or 1,200 hours TIS go by: the first inspection would have to be accomplished upon accumulating the safe life; the second inspection would have to be accomplished within 400 hours TIS after accumulating the safe life; the third inspection would have to be accomplished 400 hours TIS after the second inspection; and the replacement/modification would have to be accomplished within 400 hours TIS after the third inspection (maximum elapsed time would be 1,200 hours TIS).		

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Fort Worth Airplane Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector. The inspector may add comments before sending it to the Manager, Fort Worth ACO.

(3) Alternative methods of compliance approved for AD 2000–14–51 are not considered approved for this AD.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so 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 you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Rob Romero, Aerospace Engineer, FAA, Fort Worth ACO, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD provided that the following is adhered to:

(1) Only operate in day visual flight rules (VFR) only.

(2) Ensure that the hopper is empty.

(3) Limit airspeed to 135 miles per hour (mph) indicated airspeed (IAS).

(4) Avoid any unnecessary g-forces.

(5) Avoid areas of turbulence.

(6) Plan the flight to follow the most direct route.

(h) *Are any service bulletins incorporated into this AD by reference?* Replacement actions required by this AD must be done in accordance with Snow Engineering Service Letter #197, #202, #203, or #205, all Revised March 26, 2001, as applicable. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies of this document from Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374. You can look at copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on June 8, 2001.

Issued in Kansas City, Missouri, on May 7, 2001.

Melvin D. Taylor,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–11968 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–42–AD; Amendment 39–12229; AD 2001–10–03]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF34 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company (GE) CF34–1A, –3A, –3A1, –3A2, –3B, and –3B1 turbofan engines. This action requires a one-time inspection, and if necessary replacement of certain fan disks for electrical arc-out indications, and assigns a reduction in the life limit of certain fan disks. This amendment is prompted by a report of a crack that was found during a visual inspection as part of routine engine maintenance. The actions specified in this AD are intended to prevent rupture of the fan disk due to cracks that initiate at an electrical arc-out, which could result in an uncontained failure of the engine.

DATES: Effective May 31, 2001. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of May 31, 2001.

Comments for inclusion in the Rules Docket must be received on or before July 16, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–42–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov.* Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from GE Aircraft Engines, 1000 Western Avenue, Lynn, MA 01910; Attention: CF34 Product Support Engineering, Mail Zone: 34017; telephone (781) 594–6323; fax (781) 594–0600. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone 781–238–7148; fax 781–238–7199.

SUPPLEMENTARY INFORMATION: The FAA has received a report of a crack at one of the fan blade installation pin holes in a GE CF34–3A1 engine fan disk. The crack was found during a visual inspection that was being conducted as part of routine engine maintenance. Crack initiation sites, consisting of small zones of melted and resolidified metal,

have been discovered on fan disk surfaces. Three additional burned zones were observed adjacent to the crack site, but crack propagation at those sites did not occur because they were at lower stress locations. Metallurgical examination determined that these defects were a result of inadvertent contact by electrical probes used during an electrochemical etching procedure during manufacture. The defect is being referred to as electrical arc-out. These crack initiation sites may have occurred at fan disk surface locations accessible during part marking. Stress and life analyses conducted by the manufacturer show that if these sites occur at high-stress locations on disks, then crack propagation and rupture may occur before the part reaches its published low-cycle fatigue removal life. Also, some disks have manufacturing records that indicate blending, possibly of arc-outs, was performed at initial manufacture. This is referred to as a blended callout. Because arc-outs that may have occurred on these disks may have been blended away, these disks can not be reliably inspected for arc-out using the visual methods developed for other disks. Therefore, these disks must be removed from service. This condition, if not corrected, could result in rupture of the fan disk due to cracks that initiate at an electrical arc-out, which could result in an uncontained failure of the engine.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of GE Aircraft Engines (GEAE) Alert Service Bulletin (ASB) CF34–BJ 72–A0088, Revision 1, dated October 30, 2000; and ASB CF34–AL 72–A0103, dated August 4, 2000. These ASB's provide procedures for inspections of certain disks for electrical arc-out indications, and if necessary, replacement of the disk with a serviceable disk.

Requirements of This AD

Since an unsafe condition has been identified that is likely to exist or develop on other CF34–1A, –3A, –3A1, –3A2, –3B, and –3B1 turbofan engines of the same type design, this AD is being issued to prevent rupture of the fan disk due to cracks that initiate at an electrical arc-out. This AD requires an inspection of fan disks P/N's 5921T18G01, 5921T18G09, 5921T18G10, 5921T54G01, 5922T01G02, 5922T01G04, 5922T01G05, 6020T62G04, 6020T62G05, 6078T00G01, 6078T57G01, 6078T57G02, 6078T57G03, 6078T57G04, 6078T57G05, and 6078T57G06 for electrical arc-out indications and, if necessary, replacement of the fan disk with a serviceable disk. This AD also requires replacement of certain fan disks with blended callouts that are listed by P/N and SN in this AD before achieving a new reduced life limit. The inspection and replacement must be done in accordance with the alert service bulletins described previously.

Differences Between the Manufacturer's Service Information and This AD

Although fan disk P/N 5922T01G02 is not specified by ASB CF34–BJ 72–A0088, Revision 1, dated October 30, 2000, fan disk P/N 5922T01G02 is subject to the requirements specified in this AD.

Immediate Adoption of This AD

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NE–42–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order No. 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–10–03 General Electric Company: Amendment 39–12229. Docket 2000–NE–42–AD.

Applicability

This airworthiness directive (AD) is applicable to General Electric Company (GE) CF34–1A, –3A, –3A1, –3A2, –3B, and –3B1 turbofan engines with fan disk part numbers (P/N's) 5921T18G01, 5921T18G09, 5921T18G10, 5921T54G01, 5922T01G02, 5922T01G04, 5922T01G05, 6020T62G04, 6020T62G05, 6078T00G01, 6078T57G01, 6078T57G02, 6078T57G03, 6078T57G04, 6078T57G05, and 6078T57G06 installed. These engines are installed on but not limited to Bombardier, Inc. Canadair airplane models CL–600–2A12, -2B16, and -2B19.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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

Compliance with this AD is required as indicated, unless already done.

To prevent rupture of the fan disk due to cracks that initiate at an electrical arc-out, which could result in an uncontained failure of the engine, do the following:

Removal of Certain Fan Disks from Service

(a) On disk P/N's 5921T18G01, 5921T18G09, 5921T18G10, 5921T54G01, 5922T01G02, 5922T01G04, 5922T01G05, 6020T62G04, 6020T62G05, 6078T00G01, 6078T57G01, 6078T57G02, 6078T57G03, 6078T57G04, 6078T57G05, and 6078T57G06, that are listed by P/N and serial number (SN) in the following Table 1 of this AD and that have less than 8,000 cycles-since-new (CSN) on the effective date of this AD, replace fan disk P/N's before accumulating 8,000 CSN:

TABLE 1. FAN DISKS THAT REQUIRE REMOVAL BASED ON BLENDED CALLOUTS

Disk part number	Disk serial number
6078T57G04	GEE09287
6078T00G01	GAT3860G
6078T57G02	GAT1924L
5922T01G04	GAT9599G
6078T57G04	GEE05831
6078T57G04	GEE06612
6078T57G04	GEE06618
6078T57G04	GEE06974
6078T57G04	GEE06980
6078T57G05	GEE143FY
6078T57G05	GEE1453G
6078T57G05	GEE14452
6078T57G05	GEE145NA
6078T57G04	GEE08086

TABLE 1. FAN DISKS THAT REQUIRE REMOVAL BASED ON BLENDED CALLOUTS—Continued

Disk part number	Disk serial number
6078T57G04	GEE09287
6078T57G04	GEE09337
6078T57G05	GEE12720
6078T57G05	GEE14214
6078T57G05	GEE142YT
6078T57G05	GEE146GT

(b) For disks with SN's listed in Table 1 of this AD that have 8,000 CSN or greater on the effective date of this AD, replace the disk within 30 days after the effective date of this AD.

Inspection of All Other Fan Disks

(c) Inspect all other fan disks, P/N's 5921T18G01, 5921T18G09, 5921T18G10, 5921T54G01, 5922T01G02, 5922T01G04, 5922T01G05, 6020T62G04, 6020T62G05, 6078T00G01, 6078T57G01, 6078T57G02, 6078T57G03, 6078T57G04, 6078T57G05, and 6078T57G06 in accordance with paragraphs 3.A.(1) through 3.E.(2) of the Accomplishment Instructions of Alert Service Bulletin (ASB) CF34–BJ 72–A0088, Revision 1, dated October 30, 2000 or paragraphs 3.A.(1) through 3.A.(2)(f) of the Accomplishment Instructions of ASB CF34–AL 72–A0103, dated August 4, 2000. Use the compliance times specified in the following Table 2:

TABLE 2. FAN DISK INSPECTION COMPLIANCE TIMES

Fan disk operating CSN	Inspect by
(1) Fewer than 8,000 CSN on the effective date of this AD	Before accumulating 8,000 CSN or by the next hot section inspection after the effective date of this AD, whichever occurs earlier.
(2) 8,000 CSN or greater on the effective date of this AD	Within 120 days after the effective date of this AD.

Definitions

(d) For the purposes of this AD, the following definitions apply:

(1) A serviceable fan disk is defined as a fan disk that has been inspected as specified in paragraph (c) of this AD and is not listed in Table 1 of this AD.

(2) Cycles-since-new for fan disk P/N's 5922T01G04 or 5922T01G05 is defined as total cycles accrued since new as P/N 6078T57G02 or 6078T57G03, added to total cycles accrued after modification from P/N 6078T57G02 or 6078T57G03.

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, Engine Certification Office (ECO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

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

Special Flight Permits

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

Documents That Have Been Incorporated by Reference

(g) The actions specified in this AD must be done in accordance with the following GE alert service bulletins:

Document No.	Pages	Revision	Date
ASB CF34–BJ 72–A0088 Total pages: 15	All	1	October 30, 2000.
ASB CF34–AL 72–A0103 Total pages: 78	All	Original	August 4, 2000.

These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from GE Aircraft Engines, 1000 Western Avenue, Lynn, MA 01910; Attention: CF34 Product Support Engineering, Mail Zone: 34017; telephone (781) 594–6323; fax (781) 594–0600. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the

Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date of This AD

(h) This amendment becomes effective on May 31, 2001.

Issued in Burlington, Massachusetts, on May 7, 2001.

Francis A. Favara,

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

[FR Doc. 01–12006 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 92F–0396]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Alpha-Acetolactate Decarboxylase Enzyme Preparation

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of alpha-acetolactate decarboxylase (α-ALDC) enzyme preparation derived from *Bacillus subtilis*, modified by recombinant deoxyribonucleic acid (DNA) techniques to contain the gene coding for α-ALDC from *B. brevis*, for use as a processing aid to produce alcoholic malt beverages and distilled liquors. This action is in response to a petition filed by Novozymes North America, Inc. (formerly Novo Nordisk Bioindustrials, Inc.).

DATES: This rule is effective May 16, 2001. Submit written objections and requests for a hearing by June 15, 2001. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of a certain publication in § 173.115(b)(3), effective as of May 16, 2001.

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

FOR FURTHER INFORMATION CONTACT: Rudaina H. Alrefai, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3034.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 30, 1992 (57 FR 56585), FDA announced that a food additive petition (FAP 2A4345) had been filed by Novo Nordisk Bioindustrials, Inc., later renamed Novozymes North America, Inc., 77 Perry Chapel Church Rd., P.O. Box 576, Franklinton, NC 27525. The petition proposed that the food additive regulations be amended to provide for the safe use of α-acetolactate decarboxylase (ALDC) derived from *B. subtilis* modified by recombinant DNA techniques to contain the gene coding for ALDC from *B. brevis* for use as a processing aid in the brewing and alcohol industries.

When FDA filed the petition in the **Federal Register** of November 30, 1992 (57 FR 56585), it contained an environmental assessment (EA). The notice of filing stated " * * * if the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation * * *." In the **Federal Register** of July 29, 1997 (62 FR 40570), FDA published a final rule on its National Environmental Policy Act policies and procedures, which became effective on August 28, 1997. In a letter dated January 4, 2001, the petitioner submitted a claim of categorical exclusion under 21 CFR 25.32(k). The agency has reviewed the claim of categorical exclusion and has concluded that it is warranted.

I. Evaluation of Safety of the Petitioned Use of the Additive

A. Introduction

The use of α-ALDC enzyme preparation from *B. subtilis* is to prevent the formation of diacetyl that causes unpleasant taste in beer and other alcoholic beverages. The enzyme α-ALDC is to be distinguished from the α-ALDC enzyme preparation, which contains α-ALDC as the principal active component in addition to other components derived from the production organism and fermentation media. This document will refer to the former as "α-ALDC" and the latter as "α-ALDC enzyme preparation." Diacetyl is normally formed from α-acetolactate during fermentation. Alpha-ALDC, which is the active component of the petitioned enzyme preparation, catalyzes the conversion of α-acetolactate directly to acetoin, thereby reducing the time needed for spontaneous degradation of diacetyl to acetoin.

B. Host Organism

The host organism, *B. subtilis*, for production of α-ALDC is widely distributed in nature and is commonly present in foods eaten by both humans and animals. It also has a history of safe use as a source of enzymes in food enzyme manufacturing industry prior to 1958. Thus, *B. subtilis* is considered to be a nonpathogenic microorganism.

C. Donor Organism

B. brevis is the microorganism used as the source of the genetic material for the α-ALDC enzyme that is the subject of FAP 2A4345. FDA reviewed the safety of the DNA that encodes the enzyme α-ALDC from *B. brevis* and the enzyme it produces (discussed below), because only that DNA is transferred to the host strain from the donor organism.

D. Production Organism

The petitioner provided information demonstrating that the plasmid carrying the gene for α-ALDC is stably integrated into the chromosome of *B. subtilis* production strain. The petitioner conducted a study to evaluate the pathogenicity of three *B. subtilis* strains. In this study, mice received an intraperitoneal injection with the *B. subtilis* host strain, *B. subtilis* production strain, and a *B. subtilis* strain capable of producing α-ALDC but not used as a source of the petitioned enzyme preparation. FDA reviewed this study as well as the scientific literature concerning potential pathogenicity of *B. subtilis* and did not identify any microbiological concern (Refs. 1, 2, and 3).

E. Enzyme Preparation

The α-ALDC enzyme preparation is manufactured by a submerged pure culture fermentation of a genetically engineered strain of *B. subtilis* carrying the *B. brevis* gene that encodes α-ALDC. The enzyme is secreted to the fermentation broth and processed by removing the cellular debris, followed by concentration and formulation. For certain applications, the α-ALDC enzyme preparation is stabilized by crosslinking with glutaraldehyde (referred to as d-ALDC).

The petitioner submitted several toxicological studies that address the safety of the petitioned α-ALDC and d-ALDC enzyme preparations. These include: A teratogenicity study in rats and genotoxicity studies, including tests for mutagenic activity in *Salmonella typhimurium* and mammalian cells, as well as tests for chromosome-damaging activity in human lymphocytes. FDA has reviewed these studies and concludes that the petitioned α-ALDC

enzyme preparation does not raise any toxicity concerns at the expected level of consumption or have any mutagenic potential (Refs. 4 and 5).

F. Source of Impurities

Enzyme preparations used in food are usually not chemically pure, but contain cellular and processing material. The nature and amounts of these impurities in the finished enzyme preparation depend on the organism from which the enzyme preparation is produced (the production organism), the fermentation materials and methods used to grow the production organism, and the materials and methods used to generate the finished enzyme preparation. Thus, the question is whether the production organism or the manufacturing methods used to grow the production organism or to generate the finished enzyme preparation from recombinant *B. subtilis* will introduce impurities that raise concerns about the safety of the enzyme preparation.

One issue raised by the use of recombinant DNA techniques is the potential transfer of DNA encoding for extraneous proteins along with the gene of interest (i.e., α-ALDC), thereby contaminating the enzyme preparation. As a matter of current good manufacturing practice, manufacturers using recombinant DNA technology must ensure that they have not inadvertently cloned extraneous protein-encoding DNA along with the α-ALDC gene that may lead to contamination of the α-ALDC enzyme preparation. Such assurance can come from reviewing the details of the cloning steps, which include the origin and sequence of the DNA fragments used in the cloning, and full characterization of the final genetic constructs via techniques such as DNA sequencing. The petition contains information demonstrating that the petitioner evaluated the cloning process to ensure that the final cloning product, i.e., the DNA with the α-ALDC gene, used in the development of the recombinant *B. subtilis* was accurately constructed. The petitioner submitted evidence to demonstrate that it cloned a full-length copy of the α-ALDC gene from *B. brevis* into *B. subtilis*. The petitioner also described the multistep process for constructing the *B. subtilis* production strain. These steps involve the use of several plasmids (intermediate plasmids) that confer resistance to chloramphenicol and kanamycin, both of which are clinically useful antibiotics. Through various techniques, these plasmids are eliminated during the construction of the gene encoding α-ALDC. The petitioner tested the final enzyme preparation for the presence of the production strain or other microbial activity and for antibacterial activity and reported none present. Therefore, the agency concludes that the production strain is effectively removed by the enzyme purification procedure. Furthermore, the α-ALDC enzyme preparation conforms to the general and additional requirements for enzyme preparations in the *Food Chemicals Codex* (Ref. 6) and does not contain the production organism or antimicrobial activity.

FDA concludes that, when the α-ALDC enzyme preparation is manufactured in conformity with § 173.115, there is no basis for concern regarding the possibility that the α-ALDC enzyme preparation will be contaminated by the products of extraneous genetic material inserted along with the α-ALDC gene in *B. subtilis* (Ref. 1). Furthermore, FDA concludes, having considered the evidence concerning the production organism and the processing steps to derive the α-ALDC enzyme preparation, that: (1) *B. subtilis* containing α-ALDC gene from *B. brevis* is safe for use as a source of food-grade α-ALDC enzyme preparation, (2) impurities resulting from the use of *B. subtilis* containing α-ALDC gene from *B. brevis* in the production of α-ALDC enzyme preparation will not affect the safety of the α-ALDC enzyme preparation, and (3) processing aids and their impurities that are used to make the commercial α-ALDC enzyme preparation and that may remain in food processed with this enzyme preparation present no safety concerns (Refs. 5 and 7).

II. Conclusion

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of α-ALDC enzyme preparation from *B. subtilis* containing the α-ALDC gene from *B. brevis* is safe, (2) the additive will achieve its intended technical effect, and (3) the regulations in § 173.115 should be amended as set forth below in this document.

III. Inspection of Documents

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

IV. Environmental Impact

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

V. Paperwork Reduction Act of 1995

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

VI. Objections

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by June 15, 2001. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VII. References

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

1. Memorandum from W. Koch, FDA, to L. Kahl, FDA, September 23, 1993.

2. Memorandum from J. Madden, FDA, to the Biotechnology Policy Branch, FDA, August 29, 1995.

3. Memorandum from J. Madden, FDA, to the Biotechnology Policy Branch, FDA, October 20, 1995.
4. Memorandum from R. D. Benz, FDA, to K. C. Raffaele, FDA, July 20, 1995.
5. Memorandum from the Division of Health Effects Evaluation, FDA, to R. H. Alrefai, FDA, May 4, 1999.
6. *Food Chemicals Codex*, 1996, 4th ed., National Academy Press, Washington, DC, pp. 133–134.
7. Memorandum from the Division of Health Effects Evaluation, FDA, to R. H. Alrefai, FDA, August 20, 1999.

List of Subjects in 21 CFR Part 173

Food additives, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 173 is amended as follows:

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

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

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

2. Section 173.115 is added to subpart B to read as follows:

§ 173.115 Alpha-acetolactate decarboxylase (α-ALDC) enzyme preparation derived from a recombinant Bacillus subtilis.

The food additive alpha-acetolactate decarboxylase (α-ALDC) enzyme preparation, may be safely used in accordance with the following conditions:

(a) The food additive is the enzyme preparation derived from a modified *Bacillus subtilis* strain that contains the gene coding for α-ALDC from *Bacillus brevis*.

(b)(1) The manufacturer produces the additive from a pure culture fermentation of a strain of *Bacillus subtilis* that is nonpathogenic and nontoxigenic in man or other animals.

(2) The manufacturer may stabilize the enzyme preparation with glutaraldehyde or with other suitable approved food additives or generally recognized as safe substances.

(3) The enzyme preparation must meet the general and additional requirements for enzyme preparations in the *Food Chemicals Codex*, 4th ed., 1996, pp. 133–134, which is incorporated by reference. The Director of the Office of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20055, or may be examined at the Center for Food Safety and Applied Nutrition, 200 C St. SW., rm. 3321, Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(c) The additive is used in an amount not in excess of the minimum required to produce its intended effect as a processing aid in the production of alcoholic malt beverages and distilled liquors.

Dated: May 4, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12225 Filed 5–15–01; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Narasin, Nicarbazin, and Bambermycins

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 Elanco Animal Health. The NADA provides for use of approved narasin/nicarbazin and bambermycins Type A medicated articles to make three-way combination Type C medicated feeds used for prevention of coccidiosis, increased rate of weight gain, and improved feed efficiency in broiler chickens.

DATES: This rule is effective May 16, 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: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, filed NADA 140-942 that provides for use of Maxiban® (36 grams per pound (g/lb) each of narasin and nicarbazin) and Flavomycin® (2, 4, or 10 g/lb of bambermycins activity) Type A medicated articles to make three-way combination Type C medicated feeds for use in broiler chickens. The combination Type C medicated feeds contain 27 to 45 g/ton narasin and 27 to 45 g/ton nicarbazin (in a fixed 1:1 ratio) and 1 to 2 g/ton bambermycins, and are used for prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, and *E. mivati*, and for increased rate of weight gain and improved feed efficiency. The NADA is approved as of March 8, 2001, and the regulations are amended in 21 CFR 558.95 and 558.363 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.

§ 558.95 [Amended]

2. Section 558.95 *Bambermycins* is amended in paragraph (d)(5)(iv) by adding ''nicarbazin or'' following ''with'', and in paragraph (d)(5)(v) by removing ''Nicarbazine'' and adding in its place ''Nicarbazin''.

3. Section 558.363 is amended by adding paragraph (d)(1)(xii) to read as follows:

§ 558.363 Narasin.

* * * * *

(d) * * *

(1) * * *

(xii) *Amount per ton.* Narasin, 27 to 45 grams; nicarbazin, 27 to 45 grams; and bambermycins, 1 to 2 grams.

(A) *Indications for use.* For the prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*, and for increased rate of weight gain and improved feed efficiency.

(B) *Limitations.* Feed continuously as the sole ration. Do not allow adult turkeys, horses, or other equines access to formulations containing narasin. Ingestion of narasin by these animals has been fatal. Do not feed to laying hens. Withdraw 5 days before slaughter. Narasin and nicarbazin as provided by 000986, bambermycins by 012799 in § 510.600(c) of this chapter.

* * * * *

Dated: April 23, 2001.

Linda Tollefson,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 01–12229 Filed 5–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 864 and 876

[Docket No. 01P–0087]

Gastroenterology-Urology Devices; Classification of Tissue Culture Media for Human Ex Vivo Tissue and Cell Culture Processing Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is classifying tissue culture media for human ex vivo tissue and cell culture processing applications into class II (special controls). The special control that will apply to this device is a guidance document entitled ''Class II Special Controls Guidance Document: Tissue Culture Media for Human Ex Vivo Tissue and Cell Culture Processing Applications; Final Guidance for Industry and FDA Reviewers.'' The agency is taking this action in response to a petition submitted under the Federal Food, Drug, and Cosmetic Act (the act) as amended by the Medical Device Amendments of 1976, the Safe Medical Devices Act of 1990, and the Food and Drug Administration Modernization Act of 1997. The agency is classifying these devices into class II (special controls) in order to provide a reasonable assurance of the safety and effectiveness of the devices.

DATES: This rule is effective May 16, 2001.

FOR FURTHER INFORMATION CONTACT: Carolyn Y. Neuland, Center for Devices and Radiological Health (HFZ–473), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1220.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the act (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976, generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously marketed devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807 of the FDA regulations.

Section 513(f)(2) of the act provides that any person who submits a premarket notification under section 510(k) of the act for a device that has not previously been classified may, within 30 days after receiving an order classifying the device in class III under section 513(f)(1) of the act, request FDA to classify the device under the criteria set forth in section 513(a)(1) of the act. FDA shall, within 60 days of receiving such a request, classify the device by written order. This classification shall be the initial classification of the device. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** announcing such classification.

In accordance with section 513(f)(1) of the act, FDA issued an order on December 5, 2000, classifying the Dulbecco's Modified Eagle medium for human ex vivo tissue and cell culture processing applications in class III, because it was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or a device that was subsequently reclassified into class I or class II.

On December 19, 2000, FDA filed a petition submitted by Life Technologies, Inc., requesting classification of the Dulbecco's Modified Eagle medium for human ex vivo tissue and cell culture processing applications into class II under section 513(f)(2) of the act. After review of the information submitted in the petition, FDA determined that the Dulbecco's Modified Eagle medium for human ex vivo tissue and cell culture processing applications can be classified in class II with the establishment of special controls. The solutions are indicated for use in human ex vivo tissue and cell culture processing applications. FDA believes that class II special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device for this intended use.

In addition to the general controls of the act, the Dulbecco's Modified Eagle medium for human ex vivo tissue and cell culture processing applications is subject to a special control guidance document entitled ''Class II Special Controls Guidance Document: Tissue Culture Media for Human Ex Vivo Tissue and Cell Culture Processing Applications; Final Guidance for Industry and FDA Reviewers.''

Section 510(m) of the act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the act, if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. FDA has determined that premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of this type of device for this intended use and, therefore, the device is not exempt from the premarket notification requirements. FDA review of bench data and labeling will ensure that minimum levels of performance for both safety and effectiveness are addressed before marketing clearance. Thus, persons who intend to market this device for this intended use must submit to FDA a premarket notification submission containing information on the device before marketing the device.

On February 16, 2001, FDA issued an order to the petitioner classifying the Dulbecco's Modified Eagle medium for human ex vivo tissue and cell culture processing applications, and substantially equivalent devices of this generic type, into class II under the generic name, tissue culture media for

human ex vivo tissue and cell culture processing applications. FDA identifies this generic type of device as tissue culture media for human ex vivo tissue and cell culture processing applications consisting of cell and tissue culture media and components that are composed of chemically defined components (e.g., amino acids, vitamins, inorganic salts) that are essential for the ex vivo development, survival, and maintenance of tissues and cells of human origin. The solutions are indicated for use in human ex vivo tissue and cell culture processing applications. This order also identified as a special control applicable to this device a guidance document entitled ''Class II Special Controls Guidance Document: Tissue Culture Media for Human Ex Vivo Tissue and Cell Culture Processing Applications; Final Guidance for Industry and FDA Reviewers.''

FDA is codifying this device by adding § 876.5885. FDA is also amending 21 CFR 864.2220 *Synthetic cell and tissue culture media and components*, to clarify that the device described in that section does not include tissue culture media for human ex vivo tissue and cell culture processing applications.

II. Electronic Access

In order to receive the document entitled, ''Class II Special Controls Guidance Document: Tissue Culture Media for Human Ex Vivo Tissue and Cell Culture Processing Applications; Final Guidance for Industry and FDA Reviewers'' 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 second voice prompt press 2, and then enter the document number 1325. 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 the document entitled ''Class II Special Controls Guidance Document: Tissue Culture Media for Human Ex Vivo Tissue and Cell Culture Processing Applications; Final Guidance for Industry and FDA Reviewers,'' 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 www.fda.gov/cdrh.

III. Environmental Impact

The agency has determined under 21 CFR 25.34(b) 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.

IV. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4)). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, the final rule is not a significant regulatory action as defined by the Executive order and so it is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. FDA knows of only one manufacturer of this type of device. Classification of these devices in class II will relieve this manufacturer of the device of the cost of complying with the premarket approval requirements of section 515 of the act (21 U.S.C. 360e) and may permit small potential competitors to enter the market place by lowering their costs. The agency, therefore, certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year (adjusted annually for inflation). The Unfunded Mandates Reform Act does not require FDA to prepare a statement of costs and benefits for the final rule, because the final rule is not expected to result in any 1-year expenditure that would exceed$100 million.

V. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, or on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the order and, consequently, a federalism summary impact statement is not required.

VI. Paperwork Reduction Act of 1995

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

List of Subjects

21 CFR Part 864

Biologics, Blood, Laboratories, Medical devices, Packaging and containers.

21 CFR Part 876

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 864 and 876 are amended as follows:

PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

1. The authority citation for 21 CFR part 864 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 864.2220 is amended by revising paragraph (a) to read as follows:

§ 864.2220 Synthetic cell and tissue culture media and components

(a) *Identification*. Synthetic cell and tissue culture media and components are substances that are composed entirely of defined components (e.g., amino acids, vitamins, inorganic salts) that are essential for the survival and development of cell lines of humans and other animals. This does not

include tissue culture media for human ex vivo tissue and cell culture processing applications as described in § 876.5885 of this chapter.

* * * * *

PART 876—GASTROENTEROLOGY-UROLOGY DEVICES

1. The authority citation for 21 CFR part 876 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

2. Section 876.5885 is added to subpart F to read as follows:

§ 876.5885 Tissue culture media for human ex vivo tissue and cell culture processing applications.

(a) *Identification.* Tissue culture media for human ex vivo tissue and cell culture processing applications consist of cell and tissue culture media and components that are composed of chemically defined components (e.g., amino acids, vitamins, inorganic salts) that are essential for the ex vivo development, survival, and maintenance of tissues and cells of human origin. The solutions are indicated for use in human ex vivo tissue and cell culture processing applications.

(b) *Classification.* Class II (special controls): FDA guidance document, ''Class II Special Controls Guidance Document: Tissue Culture Media for Human Ex Vivo Processing Applications; Final Guidance for Industry and FDA Reviewers.''

Dated: May 7, 2001.

Linda S. Kahan,

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

[FR Doc. 01–12227 Filed 5–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–002]

RIN 2115–AE47

Drawbridge Operating Regulation; Inner Harbor Navigation Canal, New Orleans, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulation governing the operation of the SR 46 (St. Claude Avenue) bridge, mile 0.5 (GIWW mile 6.2 East of Harvey Lock), the SR 39 (Judge Seeber/Claiborne Avenue) bridge, mile 0.9 (GIWW mile 6.7 East of Harvey Lock), and the Florida Avenue bridge, mile 1.7 (GIWW mile 7.5 East of Harvey Lock), across the Inner Harbor Navigation Canal in New Orleans, Orleans Parish, Louisiana. This rule allows for the uninterrupted flow of commuter traffic while still providing for the reasonable needs of navigation.

DATES: This rule is effective June 15, 2001.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, will be available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, Room 1313, 501 Magazine Street, New Orleans, Louisiana 70130–3396 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, Commander (obc), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130–3396, telephone number 504–589–2965.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 22, 2001, a notice of proposed rulemaking (NPRM) entitled Drawbridge Operating Regulation; Inner Harbor Navigation Canal, New Orleans, Louisiana, was published in the **Federal Register** (66 FR 11129). Sixteen letters of comment were received on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

To meet the needs of commuters who cross these three bridges in the morning and afternoon en route to and from work in the Lower Ninth Ward area of New Orleans and in St. Bernard Parish, the Coast Guard proposed to codify the historic accommodation with marine interests that allows the bridges to remain closed-to-navigation and open to vehicular traffic during the morning and afternoon rush hours.

During the past several years, although no regulation has ever been established, all parties have accepted the spirit of the ''closure'' during morning and afternoon rush hours and the bridges have not opened during these time periods. The Coast Guard proposes to codify the accepted historic practices of these three bridges. Another factor we considered is the relocation of the Industrial Canal Lock previously discussed in detail in the Notice of Proposed Rulemaking.

The rule would establish the same operation schedules for all three draws to facilitate the flow of vehicular traffic during rush hours while still meeting the reasonable needs of navigation.

Discussion of Comments and Changes

Sixteen letters were received containing signatures in support of or commenting on the NPRM published in the **Federal Register** and reprinted in a local Coast Guard Public Notice CGD08–05–01 mailed on March 8, 2001. Thirteen respondents, one being the Louisiana Department of Transportation and Development, wrote in support of the proposal with no changes requested. One response was received containing forty-nine signatures in support of the proposal. Two respondents wrote letters in support of the project but requested that a modification be made to the proposed hours of closure. These respondents were individual commuters who wanted the hours of the closure to begin earlier in the morning to accommodate their work hours. However, the Port of New Orleans and the Louisiana Department of Transportation and Development provided traffic counts with the proposal and the traffic counts indicated that the proposed hours of closure correspond to the peak traffic crossing the bridges for the majority of the commuters. Therefore, no changes to the proposal were made based upon these responses. No changes have been incorporated into the Final Rule.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, l979).

We expect the economic impact of this proposed temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This rule maintains the existing historically accepted curfews with a minor change allowing the bridge to remain closed-to-navigation an additional 30 minutes.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this rule would have a significant economic impact on a

substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under the 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, we want to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule would not have implications for federalism under that Order. No comments were received with regards to federalism during NPRM comment period.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate. No comments were received with regards to unfunded mandates during NPRM comment period.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. No comments were received with regards to the taking of private property during NPRM comment period.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. No comments were received with regards to the taking of private property during NPRM comment period.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. Bridge Administration Program actions that can be categorically excluded include promulgation of operating regulations or procedures for drawbridges. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.458, paragraphs (a) and (b) are redesignated paragraphs (b) and (c) and a new paragraph (a) is added to read as follows:

§ 117.458 Inner Harbor Navigation Canal, New Orleans.

(a) The draws of the SR 46 (St. Claude Avenue) bridge, mile 0.5 (GIWW mile 6.2 East of Harvey Lock), the SR 39 (Judge Seeber/Claiborne Avenue) bridge, mile 0.9 (GIWW mile 6.7 East of Harvey Lock), and the Florida Avenue bridge, mile 1.7 (GIWW mile 7.5 East of Harvey Lock), shall open on signal; except that, from 6:45 a.m. to 8:30 a.m. and from 4:45 p.m. to 6:45 p.m., Monday through Friday, except federal holidays, the draws need not open for the passage of vessels. The draws shall open at any time for a vessel in distress.

* * * * *

Dated: May 2, 2001.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District

[FR Doc. 01–12238 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–15–U

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1220, 1228, 1232, 1234, and 1236

RIN 3095–AB02

Records Disposition; Technical Amendments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: NARA is correcting and updating internal references and form names covered in the records management regulations. This final rule will affect Federal agencies.

EFFECTIVE DATE: June 15, 2001.

FOR FURTHER INFORMATION CONTACT: Nancy Allard or Lynn Dubose at telephone number 301–713–7360 or fax number 301–713–7270.

SUPPLEMENTARY INFORMATION: Several amendments were made to Part 1228 in 1999, however, some internal references to Part 1228 in other Parts in Subchapter B and forms were not updated at that time. This final rule contains technical amendments such as designations for NARA organizational components, addresses, form titles, and cross-references.

This final rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this final rule will not have a significant impact on a substantial number of small entities because it applies only to Federal agencies. This final rule has no federalism or tribalism implications.

List of Subjects

36 CFR Parts 1220

Archives and records.

36 CFR Part 1228

Archives and records, Federal buildings and facilities, Incorporation by reference.

36 CFR Part 1232

Archives and records.

36 CFR Part 1234

Archives and records, Computer technology.

36 CFR Part 1236

Archives and records, Civil defense.

For the reasons set forth in the preamble, NARA amends Parts 1220, 1228, 1232, 1234 and 1236 of 36 CFR Chapter XII, as follows:

PART 1220—FEDERAL RECORDS; GENERAL

1. The authority citation for part 1220 continues to read as follows:

Authority: 44 U.S.C. 2104(a) and chs. 29 and 33.

2. In § 1220.14, revise the definition of *National Archives of the United States* to read as follows:

§ 1220.14 General definitions.

* * * * *

National Archives of the United States means those records that have been determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the Federal Government and that have been transferred to the legal custody of the Archivist of the United States on a Standard Form 258 (Agreement to Transfer Records to the National Archives of the United States).

* * * * *

§ 1220.52 [Amended]

3. In paragraph (c) of § 1220.52 remove the term ''41 CFR subpart 201–45.6'' and add in its place the term ''GSA regulations in Title 41 of the CFR''.

PART 1228—DISPOSITION OF FEDERAL RECORDS

4. The authority citation for part 1228 continues to read as follows:

Authority: 44 U.S.C. chs. 21, 29, and 33.

5. In part 1228 remove the phrase ''NSN 7610–01–055–8704'' wherever it occurs and add in its place ''(http://www.nara.gov/records/pubs/)''.

§ 1228.28 [Amended]

6. In § 1228.28, correct paragraph (b)(8)(i) by revising the reference to ''§ 1228.188'' to read ''§ 1228.270''

§ 1228.44 [Amended]

7. In the list of schedules in § 1228.44, revise entries 19 and 22 to read: ''19. RESERVED.'' and ''22. Inspector General Records (WITHDRAWN).'', respectively.

§ 1228.92 [Amended]

8. In paragraph (e) of § 1228.92 remove the term ''41 CFR part 201–45'' and add in its place the term ''GSA regulations in Title 41 of the CFR''.

§ 1228.104 [Amended]

9. In paragraph (b) of § 1228.104 remove the term ''41 CFR part 201–45'' and add in its place the term ''GSA regulations in Title 41 of the CFR''.

§ 1228.106 [Amended]

10. In § 1228.106 revise the reference to ''36 CFR 1222.20(d)'' to read ''36 CFR 1222.36''.

11. Amend § 1228.160 by revising paragraph (f) to read as follows:

§ 1228.160 How does an agency transfer records to a NARA records center?

* * * * *

(f) For further guidance on transfer of records to a NARA records center, consult the NARA Records Center Program web site (*http://www.nara.gov*), or current NARA publications and bulletins by contacting the Office of Regional Records Services (NR), individual NARA regional facilities, or the Washington National Records Center (NWMW).

§ 1228.266 [Amended]

12. In § 1228.266(e)(1) remove the phrase ''Nontextual Archives Division or its appropriate audiovisual branch,'' and add in its place the phrase ''appropriate Special Media Archives Services Division unit,''.

13. Amend § 1228.270 by revising paragraph (c)(2)(i) to read as follows:

§ 1228.270 Electronic records.

* * * * *

(c) * * *

(2) * * *

(i) CD–ROMs used for this purpose must conform to ANSI/NISO/ISO 9660–1990, American National Standard for Volume and File Structure of CD–ROM for Information Exchange. The standard is available from the National Information Standards Organization (NISO), Press Fulfillment, P.O. Box 451, Annapolis Junction, MD 20701, or the American National Standards Institute, 11 West 42nd Street, 13th floor, New York NY 10036. It is also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**.

* * * * *

14. Amend § 1228.272 by revising paragraph (b)(2) to read as follows:

§ 1228.272 Transfer of records to the National Archives of the United States

* * * * *

(b) * * *

(2) *Future transfers of series in agency space.* Sixty days before the scheduled date of transfer to the National Archives of the United States, the transferring agency must submit an SF 258 to the Office of Records Services—Washington, DC (NWMD), 8601 Adelphi Road, College Park, MD 20740–6001, or to the appropriate Regional Records Services facility if so provided on the SF 115. NARA will determine whether specified restrictions are acceptable and whether adequate space and equipment are available.

* * * * *

15. Revise § 1228.282 to read as follows:

§ 1228.282 Disposal clearances.

No records of a Federal agency still in existence will be disposed of by NARA except with the written concurrence of the agency concerned or as authorized on Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

PART 1232—AUDIOVISUAL RECORDS MANAGEMENT

16. The authority citation for part 1232 continues to read as follows:

Authority: 44 U.S.C. 2904 and 3101, and OMB Circular A–130.

§ 1232.20 [Amended]

17. In paragraphs (a) and (e) of § 1232.20 revise the reference to ''§ 1228.184'' to read ''§ 1228.266''.

§ 1232.32 [Amended]

18. In § 1232.32 revise the reference to ''§ 1228.184'' to read § 1228.266''.

PART 1234—ELECTRONIC RECORDS MANAGEMENT

19. The authority citation for part 1234 continues to read as follows:

Authority: 44 U.S.C. 2904, 3101, 3102, and 3105.

20. In part 1234, whenever it occurs, revise the reference to ''§ 1228.188'' to read ''§ 1228.270''.

§ 1234.10 [Amended]

21. In paragraph (a) of § 1234.10 remove the phrase Aand the General Services Administration Regulations Branch (KMPR), Washington, DC 20405,'' and add in its place ''and the General Services Administration, Office of Government Policy (MKB), Washington, DC 20405,''.

PART 1236—MANAGEMENT OF VITAL RECORDS

22. The authority citation for part 1236 continues to read as follows:

Authority: 44 U.S.C. 2104(a), 2904(a), 3101, E.O. 12958, 53 FR 47491, 3 CFR 1988 Comp., p. 585.

23. Amend § 1236.26 by revising paragraphs (a) and (c)(2) to read as follows:

§ 1236.26 Protection of vital records.

* * * * *

(a) *Duplication.* Computer backup tapes created in the normal course of system maintenance or other electronic copies that may be routinely created in the normal course of business may be used as the vital record copy. For hard copy records, agencies may choose to make microform copies. Standards for the creation, preservation and use of microforms are found in 36 CFR part 1230, Micrographic Records Management. The Clinger-Cohen Act (40 U.S.C. 1401, Pub. L. 104–106, *et seq.*, as amended by Pub. L. 104–208), OMB Circular A–130, and 36 CFR part 1234, Electronic Records Management, and 41 CFR part 201, subchapter B, Management and Use of Information and Records, specify protective measures and standards for electronic records.

* * * * *

(c) * * *

(2) The off-site copy of legal and financial rights vital records may be stored at an off-site agency location or, in accordance with § 1228.162 of this chapter, at an FRC.

* * * * *

Dated: May 2, 2001.

John W. Carlin,

Archivist of the United States.

[FR Doc. 01–12265 Filed 5–15–01; 8:45 am]

BILLING CODE 7515–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 122–1122; FRL–6980–8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a rule revision submitted by the state of Missouri to clarify that any credible evidence (referenced as the ''CE revisions'' or ''CE'' throughout this document) may be used to establish compliance or noncompliance with applicable requirements of the Missouri air pollution control regulations under the authority of applicable provisions in section 110(a) of the Clean Air Act (the ''Act'') (CAA). EPA proposed approval of the Missouri rule on February 6, 1996. The proposal was accompanied by a direct final rule approving the Missouri submission. In that rule, EPA stated that the rule would become final if no adverse comments were received, but that if EPA received adverse comments, it would withdraw the final rule, treat the action as a proposed rulemaking, and respond to the comments prior to taking a final action. Because it received adverse comments, EPA withdrew the final action. We are now taking final action to approve the rule. Public comments are addressed in this action and in a Response to Comments document.

DATES: This rule is effective on June 15, 2001.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

I. SUPPLEMENTARY INFORMATION:

A. Introduction

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

What is a State Implementation Plan (SIP)?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is being addressed in this document?
What comments were received by EPA and what are EPA's responses to the comments?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What Is a State Implementation Plan (SIP)?

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to EPA for inclusion into the SIP. We must provide public notice and seek additional public comment

regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, EPA is authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in the CAA.

What Is Being Addressed in This Document?

EPA is approving a rule revision submitted by the state of Missouri to clarify that any credible evidence may be used to establish compliance or noncompliance with applicable requirements of the Missouri air pollution control regulations under the authority of applicable provisions in section 110(a) of the CAA. Missouri adopted and submitted the CE revision pursuant to an EPA call for a SIP revision under section 110(k)(5) of the Act, issued by us on May 11, 1994 (the ''SIP call''). The SIP call to Missouri was part of a national SIP call announced in a proposed rulemaking published on October 22, 1993, at 58 FR 54648, which, in part, proposed rule revisions to various EPA rules to clarify that any credible evidence can be used to establish compliance or noncompliance with applicable requirements of the Act. EPA published its final rule promulgating the CE rules on February 24, 1997, at 62 FR 8314. EPA proposed approval of the Missouri rule on February 6, 1996, at 61 FR 4391. The proposal was accompanied by a direct final rule approving the Missouri submission (61 FR 4352). In that rule, we stated that the rule would become final if no adverse comments were received, but that if we received adverse comment, we would withdraw the final rule, treat the action as a proposed rulemaking, and respond to the comments prior to taking a final action. Because we received adverse comments, we withdrew the final action and we are responding to the comments in this document. References to the ''proposal'' or ''proposed rule'' are to the rule published initially as a direct final rule.

What Comments Were Received by EPA and What Are EPA's Responses to the Comments?

In response to the proposed approval of the Missouri rule, EPA received a number of comments, submitted by six industries and industry associations. Some comments relate specifically to the Missouri rule. Other comments are the same or similar to comments submitted on the 1993 national proposed rulemaking (sometimes referenced herein as the ''national'' rule). In its response to comments, we have responded in detail to the Missouri-specific comments, and in summary form to the comments that were also submitted on the national proposal. We provided a more detailed response to these comments in the ''Supplement to the Technical Support Document for the Missouri Compliance Monitor Usage Rule—Response to Comments'' and in the February 1997 response to comments accompanying the promulgation of the national rule, both of which are in the docket for the final action on the Missouri rule. The reader may request a copy at the location identified above. A summary of the more important comments and our responses follow.

Because a petition for review, which raised issues relevant to EPA's action on the Missouri rule, was pending on the national rule, we chose to withhold temporarily our final action on the state rule. Since the petition on the national rule has been dismissed, *Clean Air Implementation Project* v. *Environmental Protection Agency*, 150 F. 3d 1200 (D.C. Cir. 1998), we are now proceeding with final action on the Missouri rule.

Comments Relating to Statutory Authority for the Use of CE

A number of commenters objected to allowing the use of any credible evidence to determine compliance, arguing that section 113(e) allows such evidence to be used only to assess penalties, and not to determine initially whether a violation has occurred. In general, the commenters argue that, by its terms, section 113(e) applies only to evidence showing the duration of the violation and not to the evidence that can be used to establish the existence of a violation. The commenters also argue that the legislative history supports their assertion that CE can only be used to establish duration. One commenter also stated that the rule is a departure from the ''longstanding'' practice of determining violations based solely on the reference test method specified in the relevant emission limit.

As explained in detail in the February 1997 response to comments on the national rule (in particular, section 1.1), the CAA provides ample authority to allow the states, EPA, and citizens to offer any credible evidence to establish the initial existence of a violation as well as the duration of a violation. This authority is not only in section 113(e), but also in other sections (e.g., sections 113(a), 114(a)(3), 301, and 504(b)). The various provisions dealing with the basis for enforcing against violations, for monitoring, and for certifying compliance, show that Congress intended to clarify the types of evidence that can be used to prove a violation initially, as well as the evidence that can be used to show subsequent violations (for purposes of establishing the duration of the violation). Moreover, because the use of CE does not change existing compliance obligations, the credible evidence revisions are a permissible exercise of our general rulemaking authority in section 301.

Regarding past practice concerning the use of the applicable reference test method, we explained in the February 1997 response to comments that it has used and continues to use the reference test method as the major indicator of compliance status. However, we also explained that past use of the reference test method as the exclusive means to show compliance has not been dictated by any requirement of the CAA, but by the language in individual regulations. EPA's promulgation of the national CE rules amended the regulations consistent with the authority in section 113(a) to base enforcement actions on ''any information'' available to us. Similarly, our approval of the Missouri compliance usage rule into the SIP clarifies that nonreference test data can be used to determine compliance with the Missouri air pollution control rules, and remedies a deficiency in the SIP, to the extent that state regulations could previously have been interpreted to mean that compliance could only be determined by the results of a reference test method. (Authority to require CE provisions in SIPs is discussed in section 4 of the response to comments document.)

Comments Relating to the Relationship Between CE and Enhanced Monitoring

Several commenters objected to the proposed approval of the Missouri rule based on the perceived relationship between the credible evidence rule and the enhanced monitoring rule (proposed in 1993 along with the proposed national CE rule). The commenters stated that the national CE rule was dependent on the proposed enhanced monitoring (EM) rule, and that since the EM rule was, according to one commenter, withdrawn, EPA could not go forward with the CE rule, the CE SIP call, or approval of any state CE rules. Another commenter stated that, since the revised EM or compliance assurance monitoring (CAM) rule had not yet been developed, there was no meaningful opportunity to comment on the effect of the Missouri CE rule on underlying emission limits. Finally, one commenter stated that EPA should take no action on the Missouri rule until EPA had promulgated a CAM rule.

We responded extensively to the issues raised in these comments in our promulgation of the national CE rule, in the preamble and the response to comments document. In summary, we clarified that the EM proposal had not been formally withdrawn. In addition, we determined that the CE rule, while proposed at the same time as the EM proposal, could be promulgated apart from the EM/CAM rule. The purpose of the CE rule is to remove barriers to consideration of credible evidence, such as EM/CAM data and other relevant data, in determining violations of emission standards, and knowledge of the specific requirements of the EM/CAM rule is not necessary to formulate comments on the CE rule. In addition, we noted that the 1993 proposal gave notice that the CE revisions were separate from the EM proposal. Both the national CE rule revisions and the Missouri CE rule are revisions to existing regulations that were not dependent on promulgation of the EM/CAM rule.

Compliance of the State Rule With Missouri Law

Two commenters raised issues concerning the validity of the Missouri rule under state law. The commenters referenced a provision in the Missouri statutes that provides, with certain exceptions, that the state environmental agency cannot adopt rules which are ''any stricter than those required under the provisions of the Federal Clean Air Act * * *'' (Mo. Rev. Stat. section 643.055.1). One commenter stated that since EPA had not (as of the date of the comment letter, March 6, 1996) adopted either the enhanced monitoring or the credible evidence rule, EPA's approval of the state rule would be contrary to the Missouri statute referenced above. Another commenter stated that since EPA had no authority under the Act to require that Missouri adopt a CE rule (see discussion of related comments in sections 1 and 4 of the Response to Comments on the Missouri rule), Missouri lacked legal authority to adopt the state rule because of the limitation on rulemaking in the state statute.

EPA's authority to issue the call for SIP revisions to Missouri and other states was summarized above and in section 4 of the Response to Comments and discussed in detail in the national CE rulemaking. As shown in those discussions, the premise for the commenters' assertion that Missouri lacked authority to adopt its CE rule is incorrect, since the state rule was adopted in response to a SIP call issued by EPA to correct a deficiency in the state rules to meet a requirement of the Act. Therefore, the comments concerning the validity of the state regulation are, in large part, a reiteration of the issues relating to our authority to issue the CE rule and SIP call, to which we have previously responded.

In addition, contrary to the suggestion of one commenter, the state's statutory restriction on adoption of rules is a limitation on the state's ability to promulgate rules. It is not a restriction on our authority to approve a rule that the state has properly submitted. In submitting the state rule, both EPA and Missouri determined that the CAA required the rule, and that the state had adequate legal authority to adopt and implement the rule (letter dated February 21, 1995, from David Shorr, Director, Missouri Department of Natural Resources to Dennis Grams, Regional Administrator, EPA). EPA's review of the rule was based on whether it met the requirements of section 110 and related provisions of the Act.

Significantly, the record of public comments on the state's proposal of the rule does not indicate that this issue, which is clearly a matter of state law, was ever raised to the state's rulemaking body for consideration prior to its adoption of the rule. Even if there were any validity to the assertion that Missouri lacked authority to adopt the rule, this would have been an issue for the state, not EPA, to consider. In fact, however, the state agency charged with promulgating rules in accordance with its enabling authority specifically determined that the rule was required by Federal law, and that it had adequate authority to adopt the rule. The commenter, in effect, asks EPA to second-guess the state's application of its own law, by raising an issue that it raised for the first time after the state's rulemaking action has been completed. The commenter incorrectly states not only the requirements of the CAA, but also our role in acting on state revisions to its SIPs. The state determined that it properly adopted the rule under state law, and the commenter raises no issues that would cause us to question the state's determination.

One commenter stated that the proposed approval of the Missouri rule was procedurally flawed because we had effectively withdrawn the national enhanced monitoring rule, and the SIP call had not required submission of the Missouri rule until promulgation of the national rule. The commenter contended that approval of the Missouri rule would be pointless, because state law (referenced previously) bars the state from enforcing a rule sooner than required by Federal law.

The Missouri statute provides that the state agency may not, in certain instances, adopt standards that are more stringent than required by the Federal Act, and that such standards cannot be ''enforced'' any sooner than required by the Act. The commenter states that, since the SIP call did not require states to submit CE SIP revisions until promulgation of the ''enhanced monitoring'' rule (which had not been promulgated in any form), the state cannot enforce its rule pending EPA action promulgating a national monitoring rule.

As shown above, Missouri determined that it had adequate authority to adopt and implement the CE rule under state law, and EPA has no basis to question this determination. In addition to that discussion, EPA notes that the comment is based on the implicit assumption that the Missouri rule adds substantive requirements that could be ''enforced.'' As explained in response to a prior comment, the rule does not add substantive new requirements, but only clarifies that nonreference test data may be used to determine compliance with the applicable standard. Therefore, the rule does not impose requirements that Missouri would be enforcing prior to a time required under the Act. EPA notes that its position on this issue is consistent with the position stated by Missouri in its response to comments on the proposed state rule. In response to a comment that the rule would give the state ''undefined and unbridled'' enforcement authority, Missouri responded that it ''does not open a whole new area of enforcement * * * Violations can only exist in the context

of an emission limitation or requirement [in the existing rules].'' While the commenters did not ask Missouri to consider its CE rule in the context of the statutory restriction, the state clearly understood the rule as a clarification of existing emission limitations rather than as establishing additional enforceable requirements. (See ''Comments and Responses on the Proposed Rule 10 CSR 10–6.280 Compliance Monitoring Usage and Recommendation for Adoption,'' Commission Briefing Document, August 25, 1994, p. 222, which is in the docket for this rulemaking.)

Regarding the comment that EPA cannot approve the state rule before it takes final action on the national CE rule, EPA regards the comment as moot, since we have now taken final action to promulgate the national rule. Moreover, our approval of state CE rules is not contingent on promulgation of the national rule, but on whether the state submittal meets the requirements of the Act. Our rationale for proceeding with the SIP calls and acting on state submissions before the national CE rule promulgation was explained in the preamble to the proposed and final CE rulemaking, referenced above.

The reader should refer to the Response to Comments on the proposed approval of the Missouri rule for other issues raised by the commenters and our responses.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above in the response to comments and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations. More information on the February 6, 1996, notice of direct final rulemaking is contained in the technical support document in the docket.

What Action Is EPA Taking?

EPA is granting final approval to Missouri rule 10 CSR 10–6.280 for which approval was proposed in the **Federal Register** on February 6, 1996.

II. 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 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). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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, our 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), we have 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 rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 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 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 26, 2001.

William A. Spratlin,

Acting Regional Administrator, Region 7.

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 AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 6 by adding in numerical order the entry for ''10–6.280'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
	Missouri Department of Natural Resources			
*	*	*	*	*
	Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri			
*	*	*	*	*
10–6.280	Compliance Monitoring Usage	12/30/94	May 16, 2001 66 FR 27032	
*	*	*	*	*

* * * * *

[FR Doc. 01–12356 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6978–8]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry; State of New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to section 112(l) of the Clean Air Act (CAA), New Hampshire Department of Environmental Services (NH DES) requested approval to implement and enforce State permit terms and conditions that substitute for the National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry and the National Emissions Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-chemical Pulp Mills. The Environmental Protection Agency (EPA) has reviewed this request and has found that it satisfies all of the requirements necessary to qualify for approval. Thus, EPA is hereby granting NH DES the authority to implement and enforce alternative requirements in the form of title V permit terms and conditions after EPA has approved the state's alternative requirements.

DATES: This rule is effective on July 16, 2001 without further notice, unless EPA receives adverse comments by June 15, 2001. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Steven Rapp, Manager, Air Permits Program Unit, Office of Ecosystem Protection (mail code CAP) at the EPA New England office listed below. Copies of NH DES's request for approval are available for public inspection at the following locations:

U.S. Environmental Protection Agency, EPA-New England, Office of Ecosystem Protection, One Congress Street, Suite 1100, Boston, MA 02114–2023.

New Hampshire Department of Environmental Services, Air Resources Division, 6 Hazen Drive, Concord, NH 03302–0095.

FOR FURTHER INFORMATION CONTACT: Susan Lancey, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023, Telephone: (617) 918–1656.

SUPPLEMENTARY INFORMATION:

I. Background

On April 15, 1998, the Environmental Protection Agency (EPA) promulgated the National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry (see 63 FR 18617), which has been codified in 40 CFR part 63, subpart S, ''National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry'' (Pulp and Paper MACT I). Subsequently, on January 12, 2001, EPA promulgated the National Emission Standard for Hazardous Air Pollutants from the Pulp and Paper Industry (see 66 FR 3180) which has been codified in 40 CFR part 63, subpart MM, ''National Emission Standards for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semichemical Pulp Mills' (Pulp and Paper MACT II). The only sources currently subject to subpart S and subpart MM in New Hampshire are Groveton Paper Board Inc. of Groveton, NH (Groveton) and Pulp & Paper of America, LLC of Berlin, NH (Pulp & Paper of America).

On January 23, 2001, New Hampshire Department of Environmental Services (NH DES) requested delegation of subpart S and subpart MM under § 63.94 for both Groveton and Pulp & Paper of America. EPA received the request on January 30, 2001. NH DES requested to implement and enforce approved alternative title V permit terms and conditions in place of the otherwise applicable requirements of subpart S and subpart MM under the process outlined in 40 CFR 63.94. As part of its request to implement and enforce approved alternative title V permit terms and conditions in place of the otherwise applicable Federal section 112 standards, NH DES also requested approval of its demonstration that NH DES has adequate authorities and resources to implement and enforce all Clean Air Act (CAA) section 112 programs and rules. The purpose of this demonstration is to streamline the approval process for future CAA section 112(l) applications.

II. EPA Action

Under CAA section 112(l), EPA may approve state or local rules or programs to be implemented and enforced in place of certain otherwise applicable CAA section 112 Federal rules, emission standards, or requirements. The Federal regulations governing EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E (*see* 65 FR 55810, dated September 14, 2000). Under these regulations, a local air pollution control agency has the option to request EPA's approval to substitute alternative

requirements and authorities that take the form of permit terms and conditions instead of source category-specific regulations. This option is referred to as the equivalency by permit (EBP) option. To receive EPA approval using this option, the requirements of 40 CFR 63.91 and 63.94 must be met.

The EBP process comprises three steps. The first step (*see* 40 CFR 63.94(a) and (b)) is the ''up-front approval'' of the state EBP program. The second step (*see* 40 CFR 63.94(c) and (d)) is EPA review and approval of the state alternative section 112 requirements in the form of pre-draft permit terms and conditions. The third step (*see* 40 CFR 63.94(e)) is incorporation of the approved pre-draft permit terms and conditions into specific title V permit and the title V permit issuance process itself. The final approval of the state alternative requirements that substitute for the Federal standard does not occur for purposes of the Act, section 112(l)(5), until the completion of step three.

The purpose of step one, the ''up-front approval'' of the EBP program, is three fold: (1) It ensures that NH DES meets the 63.91(b) criteria for up-front approval common to all approval options; (2) it provides a legal foundation for NH DES to replace the otherwise applicable Federal section 112 requirements with alternative, federally enforceable requirements that will be reflected in final title V permit terms and conditions; and (3) it delineates the specific sources and Federal emission standards for which NH DES will be accepting delegation under the EBP option.

Under § 63.94(b) and § 63.91, NH's request for approval is required to include the identification of the sources and the source categories for which the state is seeking authority to implement and enforce alternative requirements, as well as a one time demonstration that the State has an approved title V operating permit program that permits the affected sources. After reviewing the request for approval of NH DES's EBP program for subpart S and subpart MM, EPA has determined that this request meets all the requirements necessary to qualify for approval under CAA section 112(l) and 40 CFR 63.91 and 63.94. Accordingly, EPA approves NH DES's request to implement and enforce alternative requirements in the form of title V permit terms and conditions for Groveton and Pulp & Paper of America for subpart S and subpart MM. The requirement applicable to the sources and the ''applicable requirement'' for title V purposes remains the Federal section 112 requirement until EPA has approved the alternative permit terms and conditions and the final title V permit is issued.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.'' This rule is not subject to Executive Order 13045, entitled, ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under Executive Order 12866.

B. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. This Federal action allows the state of New Hampshire to implement equivalent alternative permit requirements to replace pre-existing requirements under Federal law and does not have tribal implications. Thus, Executive Order 13175 does not apply to this rule.

C. Executive Order 13132

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action simply allows New Hampshire to implement equivalent alternative requirements to replace a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this rule.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C 601 et seq. generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental entities with jurisdiction over populations of less than 50,000. This final rule will not have a significant impact on a substantial number of small entities because approvals under 40 CFR 63.94 do not create any new requirements but simply allows the state to implement and enforce permit terms in place of federal requirements that the EPA is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate, or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and

is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

F. Submission to Congress and the Comptroller General

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

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 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 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: May 2, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA—New England.

Title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraphs (a)(29)(i)and (a)(29)(ii) to read as follows:

§ 63.99 Delegated Federal Authorities

(a) * * *

(29) New Hampshire.

(i) [Reserved]

(ii) New Hampshire Department of Environmental Services (NH DES) may implement and enforce alternative requirements in the form of title V permit terms and conditions for Groveton Paper Board Inc. of Groveton, NH and Pulp & Paper of America, LLC of Berlin, NH for subpart S—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry and subpart MM—National Emissions Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-chemical Pulp Mills. This action is contingent upon NH DES including, in title V permits, terms and conditions that are no less stringent than the Federal standard and have been approved by EPA. In addition, the requirement applicable to the source remains the Federal section 112 requirement until EPA has approved the alternative permit terms and conditions and the final title V permit is issued.

* * * * *

[FR Doc. 01–12039 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[WV057–6016; FRL–6979–8]

Determination of Attainment of the NAAQS for PM–10 in the Weirton, West Virginia Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA has determined that the Weirton, West Virginia PM–10 Moderate nonattainment area (comprised of the City of Weirton) attained the National Ambient Air Quality Standards (NAAQS) for Particulate Matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10) by its applicable December 31, 2000 attainment date. This determination is based upon monitored air quality data for the PM–10 NAAQS during the years 1998–2000. This determination of attainment does not redesignate the Weirton area to attainment for PM–10. The Clean Air Act requires that for an area to be redesignated, five criteria must be satisfied including the submittal of a maintenance plan as a State Implementation Plan (SIP) revision.

DATES: This rule is effective on July 2, 2001 without further notice, unless EPA receives adverse written comment by June 15, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David Arnold, Chief, Air Quality Planning and Information Services Branch, EPA Region III, 3AP21, 1650 Arch Street, Philadelphia, PA 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division,

EPA Region III, 1650 Arch Street, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: Ruth E. Knapp, (215) 814–2191, at the EPA Region III address above, or by e-mail at knapp.ruth@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Background
II. Basis for EPA's Action
III. EPA's Final Action
IV. Administrative Requirements

I. Background

A. Designation and Classification of PM–10 Nonattainment Areas

On the date of enactment of the 1990 Clean Air Act Amendments (Act), PM–10 areas meeting the qualifications of section 107(d)(4)(B) of the Act were designated nonattainment by operation of law (see generally, 42 U.S.C. 7407(d)(4)(B)). These areas included all former Group I areas identified in 52 FR 29383 (August 7, 1987) and further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the PM–10 standards prior to January 1, 1989 (many of these areas were identified by footnote 4 in the October 31, 1990 **Federal Register** document). A **Federal Register** document announcing the areas designated nonattainment for PM–10 upon enactment of the Act was published in 56 FR 11101 (March 15, 1991). A subsequent **Federal Register** document correcting some of these areas was published on August 8, 1991 (56 FR 37654). These nonattainment designations and moderate area classifications were codified in 40 CFR part 81 in a **Federal Register** document published on November 6, 1991 (56 FR 56694). All other areas in the nation not designated nonattainment at enactment were designated unclassifiable (see section 107(d)(4)(B)(iii) of the Act). Most of the ''Additional'' PM–10 nonattainment areas including the Weirton, West Virginia area were subsequently designated in a **Federal Register** document published on December 21, 1993 (58 FR 67334). Pursuant to the Act, these areas have an attainment date of December 31, 2000.

B. Finding of Attainment

Once an area is designated nonattainment, section 188 of the Act outlines the process for classification of the area and establishes the area's attainment date. Pursuant to section 188(a), all PM–10 nonattainment areas are initially classified as moderate by operation of law upon designation as nonattainment.

EPA has the responsibility, pursuant to sections 179(c) and 188(b)(2) of the Act, of determining within 6 months of the applicable attainment date whether PM–10 nonattainment areas have attained the NAAQS. Section 179(c)(1) of the Act provides that these determinations are to be based upon an area's ''air quality as of the attainment date'' and section 188(b)(2) is consistent with this requirement. EPA will make the determinations as to whether an area's air quality is meeting the PM–10 NAAQS based upon air quality data gathered at monitoring sites in the nonattainment area and entered into the Aerometric Information Retrieval System (AIRS). This data will be reviewed to determine the area's air quality status in accordance with EPA guidance at 40 CFR part 50, appendix K.

Pursuant to appendix K, attainment of the annual PM–10 standard is achieved when the annual arithmetic mean PM–10 concentration is equal to or less than 50 μg/m3. Attainment of the 24-hour standard is determined by calculating the expected number of exceedances of the 150 μg/m3 limit per year. The 24-hour standard is attained when the expected number of exceedances is 1.0 or less. A total of 3 consecutive years of clean air quality data is generally necessary to show attainment of the 24-hour and annual standards for PM–10. A complete year of air quality data, as referred to in 40 CFR part 50, appendix K, is comprised of all 4 calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days.

II. Basis for EPA's Action

The Weirton, West Virginia area contains four monitoring sites and each site has a continuous monitor which is scheduled to sample PM–10 every day. In addition, one of the monitoring sites has a co-located monitor which samples on a 1 in 6 day sampling schedule. During the years 1998 through 2000, none of the monitoring sites recorded any exceedances of the 24-hour PM–10 standard. The maximum 24-hour concentration was 130 $\mu g/m^3$ which occurred in 1998. Lower concentrations occurred in more recent years. The maximum annual concentration was 35.2 $\mu g/m^3$ which also occurred in 1998. These maximum concentrations are below the 24-hour standard of 150 $\mu g/m^3$ and the annual standard of 50 $\mu g/m^3$ respectively. Therefore, zero expected exceedances of the 24-hour standard were predicted and no violations of the annual standard as defined in appendix K occurred during 1998–2000. During most calendar quarters, data collection was over 90% of the scheduled samples and the lowest percentage of quarterly observations from any monitor was 85%. Therefore, sufficient data was obtained in order to make a determination of attainment.

Although the Weirton area has attained the PM–10 NAAQS, it will continue to carry the designation of nonattainment and the classification of moderate in 40 CFR part 81. The area may be redesignated to attainment under section 107(d)(3), if five criteria are met including the submittal of a maintenance plan as a SIP revision. A request to redesignate an area to attainment must be made by a State to EPA. EPA must review the request and required maintenance plan and follow rulemaking procedures to approve or disapprove it.

EPA is publishing this document without prior proposal because the Agency views this determination of attainment based upon monitored air quality data as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to determine that the Weirton, West Virginia area achieved attainment by its attainment date of December 31, 2000 if adverse comments are filed. This document will be effective on July 2, 2001 without further notice unless EPA receives adverse comment by June 15, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the determination will not take effect. EPA will address all public comments in a subsequent final notice based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

III. EPA's Final Action

EPA is making the determination that the Weirton PM–10 nonattainment area achieved attainment by its applicable attainment date of December 31, 2000. This area will continue to carry the designation of nonattainment and classification of moderate under 40 CFR part 81, until the State of West Virginia submits a redesignation request and maintenance plan, and that request and maintenance plan are approved by EPA. This area is eligible to be redesignated to attainment under section 107(d)(3) of the Act, if the five criteria of that section are met.

IV. Administrative Requirements

A. General 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.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action making a determination that the Weirton, West Virginia PM–10 nonattainment area has attained the PM–10 NAAQS by its applicable attainment date must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 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 81

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

Dated: May 1, 2001.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–12349 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–6980–7]

Final Effective Date Modification for the Determination of Nonattainment as of November 15, 1996, and Reclassification of the St. Louis Ozone Nonattainment Area; States of Missouri and Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking; delay of effective date.

SUMMARY: On March 19, 2001, EPA published a final rule entitled ''Determination of Nonattainment as of November 15, 1996, and Reclassification of the St. Louis Ozone Nonattainment Area; States of Missouri and Illinois'' (66 FR 15578). The effective date for the final rule was May 18, 2001. At the same time, EPA also published its proposal to delay the effective date of the determination and reclassification until June 29, 2001. The 30-day comment period on our March 19, 2001, proposal to extend the effective date has ended and EPA received no adverse comments. Today EPA is finalizing the modification of the effective date of our March 19, 2001, rule from May 18, 2001, until June 29, 2001. Section 553(d) of the Administrative Procedure Act generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. However, if an Agency identifies a good cause, section 553(d)(3) allows a rule to take effect earlier, provided that the Agency publishes its reasoning in the final rule. EPA is making this action effective immediately because the effective date of the underlying nonattainment determination and reclassification is imminent, and delaying the effective date of this action would negate the purpose of this rule. In addition, EPA finds good cause for making this action effective immediately because it relieves a restriction that would otherwise go into effect.

DATES: The effective date of the final rule amending 40 CFR part 81 published at 66 FR 15578, March 19, 2001, is delayed for six weeks, from May 18, 2001, to a new effective date of June 29, 2001. The amendments in this final rule are effective June 29, 2001.

FOR FURTHER INFORMATION CONTACT: Lynn M. Slugantz, EPA Region 7, (913) 551–7883; or Edward Doty, EPA Region 5, (312) 886–6057.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever ''we, us, or our'' is used, we mean EPA. Throughout this document, whenever ''St. Louis Area,'' ''St. Louis Nonattainment Area,'' ''St. Louis NAA,'' or ''St. Louis Ozone Nonattainment Area'' is used, we mean the interstate area which includes Madison, Monroe, and St. Clair Counties in Illinois; and Franklin, Jefferson, St. Charles, St. Louis Counties and the City of St. Louis in Missouri.

In November 1998, the Sierra Club and the Missouri Coalition for the Environment filed a complaint in the United States District Court for the District of Columbia against EPA ((*Sierra Club* v. *Browner* (now *Sierra Club* v. *Whitman*), No. 98–2733 (CKK)), alleging, in part, that EPA failed to publish a determination of nonattainment and notice of the reclassification of the St. Louis Area to ''serious'' nonattainment. With respect to the reclassification issue, the Court in an opinion and Order dated January 29, 2001, stated that it would require EPA to ''reach its statutorily required determination promptly,'' and ordered EPA to make its determination no later than March 12, 2001, ''whether the St. Louis NAA attained the requisite ozone standards.'' It also ordered EPA to publish a notice of the determination, as required by the Act, by March 12, 2001. EPA subsequently requested and the Court granted an extension to March 20, 2001, for publishing the notice. Court Order of February 14, 2001. EPA published its determination on March 19, 2001, in response to the Court's Order.

On March 8, 2001, in its Motion Re: Alternative Planned Response to Comply with the Court's Order of January 29, 2001, EPA informed the Court of its planned course of action to comply with the Court's Order, should the Court deny a request for a stay filed by another party. This course of action included issuing the ''Determination of Nonattainment as of November 15, 1996, and Reclassification.'' EPA also advised the Court that it intended to propose to postpone the effective date of that Determination and Notice until June 29, 2001, and of EPA's intent to withdraw the determination and reclassification if EPA approves an attainment date extension for the St. Louis Area before the determination becomes effective.

The Court, in a limited review to determine whether EPA's planned course of action would contravene the Court's Order, indicated that EPA, by signing a determination by March 12, and publishing the required Notice by March 20, would comply with the Court's Order. The Court noted that it lacked jurisdiction to assess the propriety of the remainder of EPA's planned course of action.

On March 19, 2001, EPA published its proposal to delay the effective date of the determination and reclassification until June 29, 2001 (66 FR 15591). EPA received letters from 39 commenters in support of the proposal to delay the effective date. We did not receive any adverse comments. EPA has determined that the additional delay of the effective date of the determination of nonattainment and reclassification is necessary to allow regulated entities in the St. Louis Area a period of time to prepare for the new requirements that are applicable to serious nonattainment areas. In the March 19 proposal, EPA noted that on the effective date of the reclassification to serious, the cutoff for ''major sources'' under the Illinois SIP will be reduced from 100 tons of emissions on an annual basis to 50 tons. Thus, a number of facilities with volatile organic compound or nitrogen oxide emission levels between 50 and 100 tons per year may become subject to major source requirements for the first time.[1] As one commenter pointed out in support of EPA's proposal, extending the date to June 29, 2001, will provide sufficient notice to the regulated entities given that the reclassification proposal on which the March 19, 2001, rule was based was published two years ago (64 FR 13384, March 18, 1999). In that proposal, EPA announced its intent not to finalize the nonattainment determination and reclassification if it granted an attainment date extension. EPA has determined that sources possibly subject to these new requirements should have additional time to prepare for the impact of these requirements.

In addition, as EPA stated in its March 19, 2001, proposal, we will continue to work on completing a separate rulemaking on the issue of whether the St. Louis Area should be granted an extension of its attainment date pursuant to EPA's ''Guidance on Extension of Air Quality Attainment Dates for Downwind Transport Areas'' (64 FR 14441, March 25, 1999), and remain classified as a moderate nonattainment area. By taking this final action to extend the effective date for the nonattainment determination, EPA is in a position to take final action on the proposal to extend the attainment date for the St. Louis Area before the nonattainment determination becomes effective. Section 181(b)(2)(A) of the Act requires that EPA determine attainment within six months of the attainment date. If the attainment date were extended, there would be a new deadline for the determination that would arise only in the future. See Guidance. Thus, if the attainment date were extended, EPA's obligation to determine attainment would not yet have occurred. If EPA were to extend the attainment date for the St. Louis Area, EPA would withdraw the published nonattainment determination and the consequent reclassification, which would not yet have gone into effect.

In light of the fact that Missouri and Illinois have submitted their final SIP submissions, EPA believes that it will be able to complete rulemaking on the attainment date extension request by June 29, 2001. On April 3, 2001, EPA published its proposal to: (1) Approve the St. Louis nonattainment area ozone attainment demonstration for both Missouri and Illinois, contingent on Illinois' submittal of a final attainment demonstration and motor vehicle emission budgets, and of an adopted rule requiring EGUs to achieve a NO_X emission rate of 0.25 pounds per mmBtu of heat input or less. (The Illinois NO_X rule is the subject of a separate April 3, 2001, proposed rulemaking, 66 FR 17641. Illinois submitted its final adopted EGU rule to EPA on April 24, 2001); (2) find that the transportation conformity motor vehicle emission budgets submitted by Illinois and Missouri are adequate for conformity purposes; (3) extend the attainment date to November 15, 2004. If, prior to the reclassification delayed effective date of June 29, 2001, EPA finalizes an extension to the attainment date for the St. Louis Area, pursuant to EPA's policy regarding extension of attainment dates for downwind transport areas, then EPA would rescind its determination of nonattainment and notice of reclassification of the area and the area would retain its classification as a moderate nonattainment area for ozone; and (4) withdraw its March 19, 2001, rulemaking determining nonattainment and reclassifying the St. Louis nonattainment area as a serious nonattainment area for ozone (66 FR 15578).

Such a course would allow the Agency to fulfill its duty to take into account upwind transport and allow an opportunity for the St. Louis Area to qualify for an extension under the attainment date extension policy which EPA has applied in other areas affected by transport. EPA recently issued final

[1] See section 182(c) in conjunction with section 182(f) of the Act for the serious area major source thresholds for these pollutants.

rulemakings granting requests for attainment date extensions based on its policy in four ozone nonattainment areas: Washington, D.C.; Greater Connecticut; Springfield, Massachusetts; 66 FR 568 (January 3, 2001), 66 FR 634 (January 3, 2001), 66 FR 666 (January 3, 2001) and Beaumont/Port Arthur, Texas (rulemaking signed on April 30, 2001).[2]

Final Action

For the reasons stated above, and in the March 19, 2001, proposal, EPA is taking final action to extend to June 29, 2001, the effective date of the final rule entitled ''Determination of Nonattainment as of November 15, 1996, and Reclassification of the St. Louis Ozone Nonattainment Area; States of Missouri and Illinois'' (66 FR 15591). Section 553(d) of the Administrative Procedure Act generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. However, if an Agency identifies a good cause, section 553(d)(3) allows a rule to take effect earlier, provided that the Agency publishes its reasoning in the final rule. EPA is making this action effective immediately because the effective date of the underlying nonattainment determination and reclassification is imminent, and delaying the effective date of this action would negate the purpose of this rule. In addition, EPA finds good cause for making this action effective immediately because it relieves a restriction that would otherwise go into effect.

Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), EPA is required to determine whether regulatory actions are significant and therefore should be subject to Office of Management and Budget (OMB) review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may ''have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.''

The Agency has determined that this effective date modification would result in none of the effects identified in section 3(f) of the Executive Order. This final rulemaking merely delays the effective date of EPA's determination of nonattainment and would not impose any new requirements on any sectors of the economy, or on state, local, or tribal governments or communities.

B. Executive Order 13045

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed action is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

C. Executive Order 13175

On November 6, 2000, the President issued Executive Order 13175 (65 FR 67249) entitled, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 took effect on January 6, 2001, and revokes Executive Order 13084 (Tribal Consultation) as of that date. This rulemaking does not affect the communities of Indian tribal governments. Accordingly, the requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

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

This rulemaking to delay the effective date of EPA's nonattainment determination does not create any new requirements. Instead, this rulemaking only delays the effective date of a factual determination, and would not regulate any entities. Therefore, pursuant to 5 U.S.C. 605(b), I certify that today's proposal would not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

E. Unfunded Mandates Reform Act

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

EPA believes, as discussed above, that the delay of the effective date of a determination of nonattainment does not constitute a Federal mandate, as defined in section 101 of the UMRA, because it does not impose an enforceable duty on any entity.

F. Executive Order 13132

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

[2] A petition for review of the Washington, D.C. rulemaking is pending in the Court of Appeals for the District of Columbia (*Sierra Club* v. *EPA*, No. 01–1070).

preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This delay of the effective date of a nonattainment determination does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because this action does not impose any new requirements on any sectors of the economy, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this final action.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects for Part 81

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

Dated: May 7, 2001.

William Rice,

Acting Regional Administrator, Region 7.

PART 81—[AMENDED]

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

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

2. Section 81.314 is amended by revising the ozone table entry for the St. Louis Area to read as follows:

§ 81.314 Illinois.

* * * * *

ILLINOIS—OZONE

[1-hour standard]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * * * * *				
St. Louis Area:				
Madison County	June 29, 2001	Nonattainment	June 29, 2001	Serious.
Monroe County	June 29, 2001	Nonattainment	June 29, 2001	Serious.
St. Clair County	June 29, 2001	Nonattainment	June 29, 2001	Serious.
* * * * * * *				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

3. Section 81.326 is amended by revising the ozone table entry for the St. Louis area to read as follows:

§ 81.326 Missouri.

* * * * *

MISSOURI—OZONE

[1-hour standard]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * * * * *				
St. Louis Area:				
Franklin County	June 29, 2001	Nonattainment	June 29, 2001	Serious.
Jefferson County	June 29, 2001	Nonattainment	June 29, 2001	Serious.
St. Charles County	June 29, 2001	Nonattainment	June 29, 2001	Serious.
St. Louis	June 29, 2001	Nonattainment	June 29, 2001	Serious.
St. Louis County	June 29, 2001	Nonattainment	June 29, 2001	Serious.
* * * * * * *				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 01–12353 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3200

[WO–310–1310–PB–01–24 1A]

RIN 1004–AB18

Geothermal Resources Leasing and Operations; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to the current regulations for geothermal resources leasing and operations published in the **Federal Register** on September 30, 1998 (63 FR 52356).

DATES: Effective October 1, 1998.

FOR FURTHER INFORMATION CONTACT: You may contact Richard Hoops, Bureau of Land Management (BLM), Nevada State Office, (775) 861–6568 (Commercial or FTS) or Shirlean Beshir, Regulatory Affairs Group (WO–630), (202) 452–5033 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact Mr. Hoops or Ms. Beshir.

SUPPLEMENTARY INFORMATION:

Background

We need to clarify the current regulations that are the subject of this correction. In paragraph (a) of § 3261.18, we clarify that the amount of the surety or personal bond listed in this section is the minimum bond amount you must hold by adding the word ''minimum.'' As written, the bond amount of the surety or personal bond BLM requires appears to be fixed. BLM indicates in §§ 3214.13 and 3214.14 that the bond amounts indicated in § 3261.18 and other sections are minimum bond amounts. § 3214.14 makes clear that BLM has the authority to raise the bond amount if necessary. Today's action removes any ambiguity or inconsistency between § 3261.18 and other sections.

Need for Correction

As published, the current regulations may confuse or mislead the public.

In paragraph (a) of § 3261.18, we added the word ''minimum'' to clarify the minimum bond amount for a surety or personal bond to be consistent with the language of § 3214.13.

List of Subjects in 43 CFR Part 3200

Environmental protection, geothermal energy, government contracts, public lands-mineral resources, reporting and recordkeeping requirements, surety bonds.

Dated: April 12, 2001.

Piet deWilt,

Acting Assistant Secretary, Land and Minerals Management.

Accordingly, 43 CFR Part 3200 is corrected by making the following amendment:

PART 3200—GEOTHERMAL RESOURCE LEASING

1. The authority citation for part 3200 continues to read as follows:

Authority: 5 U.S.C. 552; 25 U.S.C. 396d, 2107; 30 U.S.C. 1023.

2. Revise paragraph (a) introductory text of § 3261.18 to read as follows:

§ 3261.18 Do I need a bond before I build a well pad or drill a well?

* * * * *

(a) Send us either a surety or personal bond in the following minimum amount:

* * * * *

[FR Doc. 01–12276 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1149; MM Docket No. 01–35; RM–10054]

Radio Broadcasting Services; Young Harris, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 236A to Young Harris, Georgia, as that community's first local FM transmission service, in response to a petition for rule making filed by M. Terry Carter and Douglas Sutton, Jr. d/b/a Tugart Communications. See 66 FR 12449, February 27, 2001. This allotment is made without a site restriction utilizing city reference coordinates at 34–56–00 NL and 83–50–54 WL. With this action, this docketed proceeding is terminated.

DATES: Effective June 22, 2001. A filing window for Channel 236A at Young Harris, Georgia, will not be opened at this time. Instead, the issue of opening the allotment for auction will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the application process should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–35, adopted April 25, 2001, and released May 8, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Young Harris, Channel 236A.

Federal Communicatiions Commission.

John A. Karousos,

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

[FR Doc. 01–12272 Filed 5–15–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1151; MM Docket No. 01–4; RM–10020]

Radio Broadcasting Services; Willow Creek, California

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 253A to Willow Creek,

California, as its first local aural transmission service. See 66 FR 7607, (January 24, 2001). Coordinates used for Channel 253A at Willow Creek, are 40–56–50 NL and 123–37–10 WL. With this action, this docketed proceeding is terminated.

DATES: Effective June 18, 2001.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–4, adopted April 25, 2001, and released May 4, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Willow Creek, Channel 253A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–12271 Filed 5–15–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1150; MM Docket No. 01–26; RM–10045]

Radio Broadcasting Services; Patterson, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 296A to Patterson, Georgia, as that community's first local aural transmission service, in response to a petition for rule making filed by Bernice P. Hedrick and supported by Mattox Broadcasting, Inc. See 66 FR 10267, February 14, 2001. This allotment requires a site restriction 2.9 kilometers (1.8 miles) east of Patterson, utilizing coordinates at 31–23–12 NL and 82–06–18 WL.

DATES: Effective June 18, 2001. A filing window for Channel 296A at Patterson, Georgia, will not be opened at this time. Instead, the issue of opening the allotment for auction will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the application process should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–26, adopted April 25, 2001, and released May 4, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Patterson, Channel 296A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–12270 Filed 5–15–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1148; MM Docket No. 00–42; RM–9826]

Radio Broadcasting Services; Charleroi and Duquesne, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Keymarket Licenses, LLC, reallots Channel 252A from Charleroi to Duquesne, Pennsylvania, and modifies Station WOGI–FM's license accordingly. *See* 65 FR 15886, March 24, 2000. Channel 252A can be reallotted to Duquesne in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.1 kilometers (1.9 miles) east at petitioner's requested site. The coordinates for Channel 252A at Duquesne are 40–21–52 North Latitude and 79–48–49 West Longitude.

DATES: Effective June 18, 2001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–42, adopted April 25, 2001 , and released May 4, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

47 CFR PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Pennsylvania, is amended by removing Channel 252A at Charleroi and by adding Duquesne, Channel 252A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–12269 Filed 5–15–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1147; MM Docket No. 00–250; RM–10025]

Radio Broadcasting Services; Sauk Centre and Alexandria, Minnesota

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Main Street Broadcasting, Inc., licensee of Station KMSR(FM), Sauk Centre, Minnesota, and BDI Broadcasting, Inc., licensee of Station KIKV–FM, Alexandria, Minnesota, (1) allots Channel 232C3 in lieu of 232A at Sauk Centre, reallots Channel 232C3 from Sauk Centre to Alexandria, and modifies Station KMSR's license accordingly; and (2) reallots Channel 264C1 from Alexandria to Sauk Centre, and modifies Station KIKV's license accordingly. Channel 232C3 is allotted at Alexandria, Minnesota, in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, at petitioner's requested site 8.8 kilometers (5.5 miles) northwest of the community at coordinates 45–55–57 NL and 95–28–21 WL. Channel 264C1 is reallotted from Alexandria to Sauk Centre in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, at a site 15.6 kilometers (9.7 miles) west of the community at coordinates 45–41–03 NL and 95–08–14 WL.

DATES: Effective June 18, 2001 .

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–250, adopted April 25, 2001, and released May 4, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 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.

List of Subjects in 47 CFR part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b) the FM Table of Allotments under Minnesota is amended by removing Channel 232A and adding Channel 264C1 at Sauk Centre, and by removing Channel 264C1 and adding Channel 232C3 at Alexandria.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–12266 Filed 5–15–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 010510119–1119–01; I.D. 050901B]

RIN 0648–AP27

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan

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

ACTION: Temporary area and gear restrictions.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. The AA implements gear restrictions for an area totaling 460 square nautical miles (sq. nm)for 15 days to provide immediate protection to an aggregation of northern right whales. The AA also requests that fishermen adhere to voluntary measures for a 600 sq. nm precautionary area, which surrounds the restricted area.

DATES: The areas and gear restrictions are effective beginning May 13, 2001, through May 30, 2001.

ADDRESSES: Send comments on this document to Gregg LaMontagne, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930. Copies of the Environmental Assessment (EA), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Gregg LaMontagne, NMFS/Northeast Region at the address above.

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.nmfs.gov/whaletrp/.* Copies of the most recent marine mammal stock assessment reports may be obtained by writing to Richard Merrick, NMFS, 166 Water St., Woods Hole, MA 02543, or can be downloaded from the Internet at *http://www.nero.nmfs.gov/whaletrp/.*

FOR FURTHER INFORMATION CONTACT: Gregg LaMontagne, NMFS, Northeast Region, 978–281–9291; or Patricia Lawson, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION: The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of four species of whales (northern right, fin, humpback and minke) due to incidental interaction with commercial fishing activities. The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of these whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

In addition, the regulations provide authority for contingency measures for addressing unusual or unexpected aggregations of right whales, or providing protection for such groups of animals during times or in areas not addressed by the requirements specified elsewhere in § 229.32. Section 229.32(g)(2) allows the AA to revise the ALWTRP requirements through a publication in the **Federal Register** if, among other things, NMFS determines that right whales are remaining longer than expected in a closed area or have left earlier than expected, NMFS

determines that the boundaries of a closed area are not appropriate, or similar situations occur.

On April 30, 2001, NMFS received a verified report of 13 northern right whales, including 4 cow-calf pairs, in the proximity of 42° 16′N. lat. and 69° 28′W. long. On May 2, 2001, NMFS received a verified sighting of six northern right whales, including two cow-calf pairs, in the proximity of 42° 12′N. lat. and 69° 30′W. long. These positions lie northeast of Cape Cod in an area called Wilkinson Basin.

The AA, through this action, restricts lobster and gillnet gear set in the waters bounded by: 42° 30′ N. lat. 69° 15′ W. long. (NE corner); 42° 05′ N. lat. 69° 15′ W. long. (SE corner); 42° 30′ N. lat. 69° 40′ W. long. (NW corner); and 42° 05′ N. lat. 69° 40′W. long. (SW corner), as follows: (1) All gillnet gear must be removed from these waters within 48 hours of filing of this document in the **Federal Register**, and no new gear may be set in this area; (2) for all lobster trap gear set within this area at least 50 percent of the vertical lines in the water must be removed within 48 hours of filing of this document in the **Federal Register**, and no new gear may be set in this area. The restrictions will remain in effect through May 30, 2001, unless terminated sooner or extended by the AA, through another notification in the **Federal Register**. This restriction will be announced to state officials and fishermen through e-mail, phone contact, NOAA website, and other media immediately upon filing with the **Federal Register**.

In addition, the AA requests voluntary compliance from gillnet and lobster fishermen, with the same restrictions as mentioned here, for the precautionary area, which surrounds the restricted area, in the waters bounded by: 42° 36′ N. lat., 69° 10′W. long. (NE corner); 41° 55′ N. lat., 69° 10′ W. long. (SE corner); 42° 36′N. lat., 69° 45′ W. long. (NW corner); and 41° 55′N. lat., 69° 45′W. long. (SW corner). Voluntary compliance with the measures in this precautionary area is urged for the same time period as the restricted area defined above.

Authority

This action is authorized by section 118 of the Marine Mammal Protection Act and regulations at 50 CFR 229.32(g)(2).

Dated: May 10, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12326 Filed 5–11–01; 1:07 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010208032–1109–02; I.D. 050801D]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Commercial Quota Harvested for North Carolina

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

ACTION: Commercial quota harvest; closure.

SUMMARY: NMFS announces that the Atlantic bluefish commercial quota available to the State of North Carolina has been harvested. Vessels issued a commercial Federal fisheries permit for the Atlantic bluefish fishery may not land Atlantic bluefish in North Carolina for the remainder of calendar year 2001, unless additional quota becomes available through a transfer. Regulations governing the Atlantic bluefish fishery require publication of this notification to advise the State of North Carolina that the quota has been harvested and to advise Federal vessel permit holders and Federal dealer permit holders that no commercial quota is available for landing Atlantic bluefish in North Carolina.

DATES: Effective 0001 hours, May 15, 2001, through 2400 hours, December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Myles A. Raizin, Fishery Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic bluefish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.160.

The initial total commercial quota for Atlantic bluefish for the 2001 calendar year was set equal to 9,583,010 lb (4,348,008 kg)(66 FR 23625, May 9, 2001). The percent allocated to vessels landing Atlantic bluefish in North Carolina is 32.0608 percent, or 3,072,386 lb (1,394,005 kg).

Section 648.161(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor state commercial quotas and to determine when a state's commercial quota is harvested. NMFS will then publish a notification in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing Atlantic bluefish in that state. The Regional Administrator has determined, based upon dealer reports and other available information, that the State of North Carolina has attained its quota for 2001.

The regulations at § 648.4(b) provide that Federal permit holders agree as a condition of the permit not to land Atlantic bluefish in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, May 15, 2001, further landings of Atlantic bluefish in North Carolina by vessels holding Atlantic bluefish commercial Federal fisheries permits are prohibited for the remainder of the 2001 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, May 15, 2001, federally permitted dealers are also advised that they may not purchase Atlantic bluefish from federally permitted vessels that land in North Carolina for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 10, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12325 Filed 5–11–01; 1:07 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 043001B]

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fisheries by Vessels Using Hook-and-Line Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for groundfish by vessels using hook-and-line gear in the Gulf of Alaska (GOA), except for sablefish or demersal shelf rockfish in the Southeast Outside District. This action is necessary because the second seasonal bycatch mortality allowance of Pacific halibut apportioned to hook-and-line gear targeting groundfish other than sablefish and demersal shelf rockfish in the Southeast Outside District has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 17, 2001, until 1200 hrs, A.l.t., August 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP), as prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Pacific halibut bycatch mortality allowance for groundfish included in the other hook-and-line fishery, which is defined at § 679.21(d)(4)(iii)(C), was established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001) and subsequent adjustment (66 FR 17087, March 29, 2001) for the second season, the period May 17, 2001, through August 31, 2001, as 0 metric tons (mt). Under 50 CFR 679.21(d)(5), 30 mt of the Pacific halibut hook-and-line prohibited species catch (PSC) limit was moved from the May 17 through August 31 seasonal allowance to the January 1 through May 17 seasonal allowance in order to accommodate new Pacific cod seasons implemented under an emergency rule (66 FR 7276, January 22, 2001) and to optimize the harvest of Pacific cod.

The other hook-and-line fishery includes all groundfish except sablefish in the GOA and demersal shelf rockfish in the Southeast Outside District.

In accordance with § 679.21(d)(7)(ii), NMFS is prohibiting directed fishing for groundfish other than sablefish in the GOA or demersal shelf rockfish in the Southeast Outside District by vessels using hook-and-line gear.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action because the Pacific halibut hook-and-line PSC limit for the second seasonal bycatch mortality allowance has been reached constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20 (b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion because the Pacific halibut hook-and-line PSC limit for the second seasonal allowance has been reached constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 10, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12365 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 95
Wednesday, May 16, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 80

[Doc. No. FV–01–80–01]

Regulations Governing the Fresh Russet Potato Diversion Program, 2000 Crop

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of comment period and amendment to the proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is extending the public comment period for regulations governing the fresh russet potato diversion program for the 2000 crop year. The AMS is also extending in proposed § 80.4 the period for producers to divert potatoes to eligible diversion outlets.

DATES: Written comments must be received on or before June 12, 2001.

ADDRESSES: Interested persons are invited to submit written comments concerning this action to: Susan Proden, Chief, Commodity Procurement Branch, Fruit and Vegetable Programs, AMS, USDA, P. O. Box 96456, Room 2546—South Building, Washington, DC 20090–6456; Fax: (202) 720–2782, or visit the website at: *http://www.ams.usda.gov/fv/fvcomm.htm.* All written submissions made pursuant to this proposed rule will be made available for public inspection in Room 2546—South Building, USDA, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday.

FURTHER INFORMATION CONTACT: Susan Proden, Branch Chief, Room 2546—South Building, USDA or call (202) 720–4517. Information may also be obtained at the website: *http://www.ams.usda.gov/fv/fvcomm.htm.*

FOR THE NEAREST FEDERAL INSPECTION OFFICES CONTACT: 1–800–811–2373 or visit the website at: *http://www.ams.usda.gov/fv/fpboffices.html.*

SUPPLEMENTARY INFORMATION: A proposed rule was published in the **Federal Register** on April 13, 2001. The proposal invited comments on the procedures setting forth the terms of the Fresh Russet Potato Diversion Program for the 2000 crop year pursuant to clause (2) of section 32 of the Act of August 24, 1935, as amended. The proposed program will assist fresh russet potato growers faced with oversupplies and low prices by diverting potatoes to charitable institutions, for livestock feed, to convert them to ethanol, and to render them nonmarketable and dispose of in accordance with federal, state and local regulations. AMS is extending the public comment period from May 13, 2001 to June 12, 2001 and amending the proposed rule to extend, by an additional 30 days, the period for producers to divert potatoes to eligible diversion outlets until June 12, 2001. This action was based on a request from farmers who have had difficulty finding eligible diversion outlets due to the time they need for Spring planting. In addition, the volumes signed up thus far remain below 2 million hundredweight, far short of the program's goal.

Accordingly, we are amending §§ 80.4 and 80.9 of the proposed regulation, found in the April 13, 2001, **Federal Register**, pages 19099–19102 to read as follows:

PART 80—[AMENDED]

§ 80.4 Length of program.

This program is effective April 13, 2001. Producers diverting potatoes to charitable institutions, livestock feed, ethanol production, or rendering them nonmarketable must complete the diversion of the 2000 crop potatoes no later than June 12, 2001.

§ 80.9 Claim for payment.

(a) In order to obtain payment for shipments to charitable institutions, the producer must submit to the county FSA office between June 13 and July 13, 2001, a certified FV–184 or FV–301 inspection certificate, a completed Form FSA–117, and a bill of lading showing shipment was made.

(b) To obtain payment for potatoes diverted to livestock feed, ethanol production or rendering nonmarketable, the producer must submit to the county FSA office between June 13 and July 13, 2001 each of the following: a properly executed Form FSA–117, an inspection certificate (FV–184 or FV–301), a livestock feed recipient, or an ethanol production or disposal delivery receipt (issued by livestock feed lot, ethanol plant or federal-state inspector) indicating hundredweight received, the date, name, address and telephone number of the recipient.

Dated: May 11, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–12389 Filed 5–11–01; 4:43 pm]

BILLING CODE 3410–02–U

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1, 2, 50, 51, 52, 54, 60, 70, 73, 76, and 110

RIN 3150–AG49

Changes to Adjudicatory Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: On April 16, 2001 (66 FR 19610), the Nuclear Regulatory Commission (NRC) published for public comment a proposed rule amending its rules of practice to make the NRC's hearing process more effective and efficient. Jonathan M. Block and the Nuclear Information and Resource Service (NIRS) requested a 90 and 120 day extension, respectively, to the public comment period. Their requests were based on the fact that the transcripts of a public meeting on NRC Hearing Processes which was held on October 26–27, 1999, had not been placed in the NRC Public Document Room (PDR) as was indicated in the April 16, 2001 **Federal Register** notice for the proposed rule, nor otherwise made available for electronic downloading on the NRC Web page or through ADAMS. The Commission placed the transcripts in the PDR on April 26, 2001, and subsequently placed the transcripts on the NRC's Web page (*http://www.nrc.gov/NRC/PUBLIC/meettrans.html*) and in ADAMS (Accession Nos. ML011160507, ML011160525). In view of the 10-day delay in placing the transcripts in the PDR and in the interest of obtaining

public comment from the broadest range of stakeholders, the comment period on the proposed rule is being extended for an additional 60 days from the original July 16, 2001 deadline to September 14, 2001.

DATES: The comment period has been extended and now expires on September 14, 2001. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001. ATTN: Rulemakings and Adjudications Staff.

Hand delivered comments should also be addressed to the Secretary, U.S. Nuclear Regulatory Commission, and delivered to: 11555 Rockville Pike, Rockville, MD, between 7:30 am and 4:15 pm Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website (*http://ruleforum.llnl*). This site also provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail *CAG@nrc.gov.*

Certain documents relating to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Room O1–F21, Rockville, MD. The same documents may also be viewed and downloaded electronically via the rulemaking website, *http://ruleforum.llnl.gov.* Documents created or received at the NRC after November 1, 1999 are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Geary S. Mizuno, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1639, e-mail GSM@nrc.gov.

Dated at Rockville, Maryland, this 10th day of May, 2001.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 01–12338 Filed 5–15–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF STATE

22 CFR Part 62

[Public Notice 3639]

Exchange Visitor Program

AGENCY: Department of State.

ACTION: Proposed rule with request for comment.

SUMMARY: This proposed rule would amend existing regulations governing the au pair exchange program. These amendments would create a sub-category of au pair exchange participation under which the au pair participant would provide fewer hours of child care for the host family while the required educational component that the au pair must complete would increase from not less than six semester hours of academic credit or its equivalent per year to not less than twelve semester hours of academic credit or its equivalent per year.

DATES: Comments regarding this proposed rule will be accepted until June 15, 2001.

ADDRESSES: Comments regarding this proposed rule should be submitted in duplicate and addressed as follows: U.S. Department of State, Bureau of Educational and Cultural Affairs, 301 Fourth Street, SW., Room 852, Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, U.S. Department of State, 301 Fourth Street, SW., Room 852, Washington, DC 20547; telephone (202) 619–6828.

SUPPLEMENTARY INFORMATION: These regulations govern Department-designated au pair programs under which foreign nationals are afforded the opportunity to live with an American host family and participate directly in the home life of the host family while providing child care services and attending a U.S. post-secondary educational institution. The Department's goal in proposing amendment of these existing regulations is to provide an opportunity for participation by foreign nationals who wish to pursue their academic studies more vigorously. To this end, the Department proposes to reduce the amount of child care services the potential au pair participant will provide to not more than 30 hours per week while increasing the amount of academic credit the au pair will pursue to not less than twelve semester hours or its equivalent. At the suggestion of Department-designated au pair sponsors, the Department proposes to identify this form of au pair participation as EduCare. Existing provisions for au pair participation based upon up to 45 hours of child care services and the pursuit of not less than six semester hours of academic credit or its equivalent remain unchanged.

To accomplish this dual objective, the Department is advised by its designated au pair program sponsors that potential EduCare au pair participants should be placed with host families that need before and after school child care services for their school age children. Accordingly, the Department proposes that potential EduCare au pair participants not be placed with families having pre-school children unless alternative, full-time arrangements are in place for the supervision of such pre-school children. As the potential EduCare au pair participant will be more actively pursuing his or her academic studies, the Department is also proposing a reduction in the number of hours that the au pair will provide child care services from not more than 45 hours per week to not more than 30 hours per week. This reduction in the number of hours of child care services provided dictates a corresponding reduction in the weekly wage paid to an EduCare au pair participant. An au pair participating in the EduCare program would still be paid in accordance with the provisions of the Fair Labor Standards Act. However, as a matter of administrative convenience for both Department-designated sponsors and participating host families, the Department proposes that the weekly wage for EduCare au pair participants be calculated as a percentage of the weekly wage paid to all other au pair participants.

The Department invites comment regarding this proposed rule notwithstanding the fact that it is under no legal obligation to do so. The oversight and administration of the Exchange Visitor Program are deemed to be a foreign affairs function of the United States Government. The Administrative Procedures Act, 5 U.S.C. 553(a)(1) (1994), specifically exempts foreign affairs functions from the rulemaking requirements of the Act.

List of Subjects in 22 CFR Part 62

Cultural exchange programs.

Accordingly, 22 CFR Part 62 is proposed to be amended as follows:

PART 62—EXCHANGE VISITOR PROGRAM

1. The Authority citation for Part 62 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1184, 1258; 22 U.S.C. 1431–1442, 2451–2460; Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. 105–277, 112 Stat. 2681 *et seq.*; Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp. p. 200; E.O. 12048 of March 27, 1978; 3 CFR, 1978 Comp. p. 168.

2. Section 62.31 is amended by revising paragraphs (a), (c)(1) through (c)(3), (e) introductory text, (e)(3) and (e)(5), (j), and (k) to read as follows:

§ 62.31 Au pairs.

(a) *Introduction.* This section governs Department of State-designated exchange visitor programs under which foreign nationals are afforded the opportunity to live with an American host family and participate directly in the home life of the host family. All au pair participants provide child care services to the host family and attend a U.S. post-secondary educational institution. Au pair participants provide up to forty-five hours of child care services per week and pursue not less than six semester hours of academic credit or its equivalent during their year of program participation. Au pairs participating in the EduCare program provide up to thirty hours of child care services per week and pursue not less than twelve semester hours of academic credit or its equivalent during their year of program participation.

* * * * *

(c) * * *

(1) Limit the participation of foreign nationals in such programs to not more than one year;

(2) Limit the number of hours an EduCare au pair participant is obligated to provide child care services to not more than 10 hours per day or more than 30 hours per week and limit the number of hours all other au pair participants are obligated to provide child care services to not more than 10 hours per day or more than 45 hours per week;

(3) Require that EduCare au pair participants register and attend classes offered by an accredited U.S. post-secondary institution for not less than twelve semester hours of academic credit or its equivalent and that all other au pair participants register and attend classes offered by an accredited U.S. post-secondary institution for not less than six semester hours of academic credit or its equivalent;

* * * * *

(e) *Au pair placement.* Sponsors shall secure, prior to the au pair's departure from the home country, a host family placement for each participant. Sponsors shall not:

* * * * *

(3) Place an au pair with a host family having children under the age of two, unless the au pair has at least 200 hours of documented infant child care experience. An au pair participating in the EduCare program shall not be placed with a family having pre-school children in the home unless alternative full-time arrangements for the supervision of such pre-school children are in place;

* * * * *

(5) Place an au pair with a host family unless a written agreement between the au pair and the host family detailing the au pair's obligation to provide child care has been signed by both the au pair and the host family prior to the au pair's departure from his or her home country. Such agreement shall clearly state whether the au pair is an EduCare program participant or not. Such agreement shall not limit the obligation to provide child care services to not more than 10 hours per day or more than 45 hours per week unless the au pair is an EduCare participant. Such agreement shall limit the obligation of an EduCare participant to provide child care service to not more than 10 hours per day or more than 30 hours per week.

* * * * *

(j) *Wages and hours.* Sponsors shall require that au pair participants:

(1) Are compensated at a weekly rate based upon 45 hours of child care services per week and paid in conformance with the requirements of the Fair Labor Standards Act as interpreted and implemented by the United Stated Department of Labor. EduCare participants shall be compensated at a weekly rate that is 75% of the weekly rate paid to non-EduCare participants;

(2) Do not provide more than 10 hours of child care per day, or more than 45 hours of child care in any one-week. EduCare participants may not provide more than 10 hours of child care per day or more than 30 hours of child care in any one week;

(3) Receive a minimum of one and one half days off per week in addition to one complete weekend off each month; and

(4) Receive two weeks of paid vacation.

(k) *Educational component.* Sponsors shall require that during their period of program participation, all EduCare au pair participants are enrolled in an accredited U.S. post-secondary institution for not less than twelve semester hours of academic credit or its equivalent and that all other au pair participants are enrolled in an accredited U.S. post-secondary institution for not less than six semester hours of academic credit or its equivalent. As a condition of program participation, host family participants must agree to facilitate the enrollment and attendance of the au pair in an accredited U.S. post-secondary institution and to pay the cost of such academic course work in an amount not to exceed $1,000 for EduCare au pair participants and in an amount not to exceed $500 for all other au pair participants.

* * * * *

Dated: March 23, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–12375 Filed 5–15–01; 8:45 am]

BILLING CODE 4710–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–057–200105; FRL–6980–5]

Approval and Promulgation of Implementation Plans: Alabama: Nitrogen Oxides Budget and Allowance Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Alabama on March 12, 2001. This revision responds to the EPA's regulation entitled, ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,'' otherwise known as the ''NO_X SIP Call.'' This revision establishes and requires a nitrogen oxides (NO_X) allowance trading program for large electric generating and industrial units, and reductions for cement kilns, beginning in 2004. The intended effect of this SIP revision is to reduce emissions of NO_X in order to help attain the national ambient air quality standard for ozone. EPA is proposing to approve Alabama's NO_X Reduction and Trading Program because it meets the requirements of the Phase I NO_X SIP Call that will significantly reduce ozone transport in the eastern United States. EPA has deemed the

submittal is administratively and technically complete, and a letter of completeness was sent to Alabama Department of Environmental Management (ADEM) on April 26, 2001.

DATES: Written comments must be received on or before June 15, 2001.

ADDRESSES: All comments should be addressed to: Sean Lakeman at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303.

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Alabama Department of Environmental Management, 400 Coliseum Boulevard, Montgomery, Alabama 36110–2059.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Planning Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303. The telephone number is (404) 562–9043. Mr. Lakeman can also be reached via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION: On October 13, 2000, ADEM submitted a draft NO_X emission control rule to the EPA for pre-adoption review, requesting parallel processing to the development of the rule at the State level and included a schedule for development and adoption of the rule by the State. On March 12, 2001, ADEM submitted final revisions to its SIP to meet the requirements of the Phase I NO_X SIP Call. The revisions comply with the requirements of the Phase I NO_X SIP Call. Included in this document are revisions to chapter 335–3–1 General Provisions and chapter 335–3–8 Control of Nitrogen Oxide Emissions. The information in this proposal is organized as follows:

I. EPA's Action
A. What action is EPA proposing today?
B. Why is EPA proposing this action?
C. What are the NO_X SIP Call general requirements?
D. What is EPA's NO_X budget and allowance trading program?
E. What guidance did EPA use to evaluate Alabama's submittal?
F. What is the result of EPA's evaluation of Alabama's program?
II. Alabama's Control of NO_X Emissions
A. When did Alabama submit the SIP revision to EPA in response to the NO_X SIP Call?
B. What is the Alabama's NO_X Budget Trading Program?
C. What is the Compliance Supplement Pool?
D. What is the New Source Set-Aside program?
III. Proposed Action
IV. Administrative Requirements

I. EPA's Action

A. What Action Is EPA Proposing Today?

EPA is proposing to approve revisions to Alabama's SIP concerning the adoption of its NO_X Reduction and Trading Program, submitted on March 12, 2001.

B. Why Is EPA Proposing This Action?

EPA is proposing this action because Alabama's NO_X Reduction and Trading Program regulations meet the requirements of the Phase I NO_X SIP Call. Therefore, EPA is proposing full approval of Alabama's NO_X Reduction and Trading Program.

C. What Are the NO_X SIP Call General Requirements?

On October 27, 1998, EPA published a final rule entitled, ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,'' otherwise known as the ''NO_X SIP Call.'' See 63 FR 57356. The NO_X SIP Call requires 22 States and the District of Columbia to meet statewide NO_X emission budgets during the five month period between May 1 and October 1 in order to reduce the amount of ground level ozone that is transported across the eastern United States.

EPA identified NO_X emission reductions by source category that could be achieved by using cost-effective measures. The source categories included were electric generating units (EGUs) and non-electric generating units (non-EGUs), internal combustion engines and cement kilns were also included. EPA determined state-wide NO_X emission budgets based on the implementation of these cost effective controls for each affected jurisdiction to be met by the year 2007. Internal combustion engines are not addressed by Alabama in this response to Phase I, but will be in Phase II. However, the NO_X SIP Call allowed states the flexibility to decide which source categories to regulate in order to meet the statewide budgets. In the NO_X SIP Call notice, EPA suggested that imposing statewide NO_X emissions caps on large fossil-fuel fired industrial boilers and EGUs would provide a highly cost effective means for states to meet their NO_X budgets. In fact, the state-specific budgets were set assuming an emission rate of 0.15 pounds NO_X per million British thermal units (lb. NO_X/mmBtu) at EGUs, multiplied by the projected heat input (mmBtu) from burning the quantity of fuel needed to meet the 2007 forecast for electricity demand. See 63 FR 57407. The calculation of the 2007 EGU emissions assumed that an emissions trading program would be part of an EGU control program. The NO_X SIP Call state budgets also assumed on average a 30 percent NO_X reduction from cement kilns, and a 60 percent reduction from industrial boilers and combustion. The non-EGU control assumptions were applied at units where the heat input capacities were greater than 250 mmBtu per hour, or in cases where heat input data were not available or appropriate, at units with actual emissions greater than one ton per day.

To assist the states in their efforts to meet the SIP Call, the NO_X SIP Call final rulemaking notice included a model NO_X allowance trading regulation, called ''NO_X Budget Trading Program for State Implementation Plans,'' (40 CFR part 96), that could be used by states to develop their regulations. The NO_X SIP Call notice explained that if states developed an allowance trading regulation consistent with the EPA model rule, they could participate in a regional allowance trading program that would be administered by the EPA. See 63 FR 57458–57459.

There were several periods during which EPA received comments on various aspects of the NO_X SIP Call emissions inventories. On March 2, 2000, EPA published additional technical amendments to the NO_X SIP Call in the **Federal Register** (65 FR 11222). On March 3, 2000, the D.C. Circuit issued its decision on the NO_X SIP Call ruling in favor of EPA on all the major issues. *Michigan* v. *EPA,* 213 F.3d 663 (D.C. Cir. 2000). The DC Circuit Court denied petitioners' requests for rehearing or rehearing en banc on July 22, 2000. However, the Circuit Court remanded four specific elements to EPA for further action: The definition of electric generating unit, the level of control for stationary internal combustion engines, the geographic extent of the NO_X SIP Call for Georgia and Missouri, and the inclusion of Wisconsin. On March 5, 2001, the U.S. Supreme Court declined to hear an appeal by various utilities, industry groups and a number of upwind states from the D.C. Circuit's ruling on EPA's NO_X SIP Call rule.

EPA expects to publish a proposal that addresses the remanded portion of the NO_X SIP Call Rule. Any additional

emissions reductions required as a result of a final rulemaking on that proposal will be reflected in the second phase portion (Phase II) of the State's emission budget. On April 11, 2000, in response to the Court's decision, EPA notified Alabama of the maximum amount of NO_X emissions allowed for the State during the ozone season. This emission budget reflected adjustments to Alabama's NO_X emission budget to reflect the Court's decision that Georgia and Missouri should not be included in full. Although the Court did not order EPA to modify Alabama's budget, the EPA believes these adjustments are consistent with the Court's decision.

D. What Is EPA's NO_X Budget and Allowance Trading Program?

EPA's model NO_X budget and allowance trading rule, 40 CFR part 96, sets forth a NO_X emissions trading program for large EGUs and non-EGUs. A state can voluntarily choose to adopt EPA's model rule in order to allow sources within its borders to participate in regional allowance trading. The October 27, 1998, **Federal Register** notice contains a full description of the EPA's model NO_X budget trading program. See 63 FR 57514–57538 and 40 CFR part 96.

Air emissions trading, in general, uses market forces to reduce the overall cost of compliance for pollution sources, such as power plants, while maintaining emission reductions and environmental benefits. One type of market-based program is an emissions budget and allowance trading program, commonly referred to as a ''cap and trade'' program.

In an emissions budget and allowance trading program, the state or EPA sets a regulatory limit, or emissions budget, in mass emissions from a specific group of sources. The budget limits the total number of allowances for each source covered by the program during a particular control period. When the budget is set at a level lower than the current emissions, the effect is to reduce the total amount of emissions during the control period. After setting the budget, the state or EPA then assigns, or allocates, allowances to the participating entities up to the level of the budget. Each allowance authorizes the emission of a quantity of pollutant, e.g., one ton of airborne NO_X.

At the end of the control period, each source must demonstrate that its actual emissions during the control period were less than or equal to the number of available allowances it holds. Sources that reduce their emissions below their allocated allowance level may sell their extra allowances. Sources that emit more than the amount of their allocated allowance level may buy allowances from the sources with extra reductions. In this way, the budget is met in the most cost-effective manner.

E. What Guidance Did EPA Use To Evaluate Alabama's Submittal?

The final NO_X SIP Call rule included a model NO_X budget trading program regulation. See 40 CFR part 96. EPA used the model rule and 40 CFR 51.121–51.122 to evaluate Alabama's NO_X reduction and trading program.

F. What Is the Result of EPA's Evaluation of Alabama's Program?

EPA has evaluated Alabama's March 12, 2001, SIP submittal and finds it approvable. The Alabama NO_X reduction and trading program is consistent with EPA's guidance and meets the requirements of the Phase I NO_X SIP Call. EPA finds the NO_X control measures in the Alabama's NO_X reduction and trading program approvable. The March 12, 2001, submittal will strengthen Alabama's SIP for reducing ground level ozone by providing NO_X reductions beginning in 2004. Also, EPA finds that the submittal contained the information necessary to demonstrate that Alabama has the legal authority to implement and enforce the control measures, and to demonstrate their appropriate distribution of the compliance supplement pool. Furthermore, EPA proposes to find that the submittal demonstrates that the compliance dates and schedules, and the monitoring, recordkeeping and emission reporting requirements will be met.

II. Alabama's Control of NO_X Emissions

A. When Did Alabama Submit the SIP Revision to EPA in Response to the NO_X SIP Call?

On October 13, 2000, the Alabama Department of Environmental Management submitted a draft NO_X emission control rule to the EPA for pre-adoption review, requesting parallel processing to the development of the rule at the State level and included a schedule for adoption of the rule by the State. On March 12, 2001, ADEM submitted a final revision to its SIP to meet the requirements of the Phase I NO_X SIP Call.

B. What Is the Alabama's NO_X Budget Trading Program?

Alabama proposes, as in the model rule, to allow the large EGUs, boilers and turbines to participate in the multi-state cap and trade program. Cement kilns are not included in the trading program, but will be required to install low NO_X burners, mid-kiln system firings or technology that achieves the same emission decreases. Alabama's SIP revision to meet the requirements of the NO_X SIP Call consists of the revision of chapter 335–3–1 General Provisions and chapter 335–3–8 Control of Nitrogen Oxide Emissions. The regulations under 335–3–8 affect EGUs, non-EGUs, and cement manufacturing facilities. Chapter 335–3–1 added one new regulation (.14) Emissions Reporting Requirements Relating to Budgets for NO_X Emissions. Chapter 335–3–8 Control of Nitrogen Oxide Emissions added eleven new regulations: (.01) Standards for Portland Cement Kilns; (.04) Standards For Stationary Reciprocating Internal Combustion Engines (reserved); (.05) NO_X Budget Trading Program; (.06) Authorized Account Representative for NO_X Budget Sources; (.07) Permits; (.08) Compliance Certification; (.09) NO_X Allowance Allocations; (.10) NO_X Allowance Tracking System; (.11) NO_X Allowance Transfers; (.12) Monitoring and Reporting; and (.13) Individual Unit Opt-ins.

Alabama's NO_X Reduction and Trading Program establishes and requires a NO_X allowance trading program for large EGUs and non-EGUs, and reductions from cement kilns. The regulations under 335–3–8 establish a NO_X cap and allowance trading program for the ozone control seasons beginning May 31, 2004.

The State of Alabama voluntarily chose to follow EPA's model NO_X budget and allowance trading rule, 40 CFR part 96, that sets forth a NO_X emissions trading program for large EGUs and non-EGUs. Alabama's NO_X Reduction and Trading Program is based upon EPA's model rule, therefore, Alabama sources are allowed to participate in the interstate NO_X allowance trading program that EPA will administer for the participating states. The State of Alabama has adopted regulations that are substantively identical to 40 CFR part 96. Therefore, pursuant to 40 CFR 51.121(p)(1), Alabama's SIP revision is approved as satisfying the State's NO_X emission reduction obligations. Under 335–3–8, Alabama allocates NO_X allowances to the EGU and non-EGU units that are affected by these requirements. The NO_X trading program applies to all fossil fuel fired EGUs with a nameplate capacity greater than 25 MW or more that sell any amount of electricity to the grid as well as any non-EGUs that have a heat input capacity equal to or greater than 250 mmBtu per hour. Each NO_X allowance permits a source to emit one ton of NO_X during

the seasonal control period. NO_X allowances may be bought or sold. Unused NO_X allowances may also be banked for future use, with certain limitations.

Source owners will monitor their NO_X emissions by using systems that meet the requirements of 40 CFR part 75, subpart H, and report resulting data to EPA electronically. Each budget source complies with the program by demonstrating at the end of each control period that actual emissions do not exceed the amount of allowances held for that period. However, regardless of the number of allowances a source holds, it cannot emit at levels that would violate other federal or state limits, for example, reasonably available control technology (RACT), new source performance standards, or Title IV (the Federal Acid Rain program).

Alabama's NO_X Reduction and Trading Program establishes requirements for cement manufacturing facilities, however, these sources are subject to NO_X reduction requirements but do not participate in the NO_X trading program. Alabama's submittal does not rely on any additional reductions beyond the anticipated Federal measures in the mobile and area source categories.

Alabama's submittal demonstrates that the Phase I NO_X emission budgets established by EPA will be met as follows:

Source category	EPA 2007 NO_X budget emissions (tons/season)	Alabama 2007 NO_X budget emissions (tons/season)
EGUs	23,242	23,169
Non-EGUs	31,240	31,159
Area Sources	21,109	21,109
Non-road Sources	13,402	13,402
Highway Sources	35,801	35,801
Total	124,795	124,640

C. What Is the Compliance Supplement Pool?

To provide additional flexibility for complying with emission control requirements associated with the NO_X SIP Call, the final NO_X SIP Call rule provided each affected state with a ''compliance supplement pool.'' The compliance supplement pool is a quantity of NO_X allowances that may be used to cover excess emissions from sources that are unable to meet control requirements during the 2004 and 2005 ozone season. Allowances from the compliance supplement pool will not be valid for compliance past the 2005 ozone season. The NO_X SIP Call included these voluntary provisions in order to address commenters' concerns about the possible adverse effect that the control requirements might have on the reliability of the electricity supply or on other industries required to install controls as the result of a state's response to the NO_X SIP Call.

A state may issue some or all of the compliance supplement pool via two mechanisms. First, a state may issue some or all of the pool to sources with credits from implementing NO_X reductions beyond all applicable requirements after September 30, 1999, but before May 31, 2004 (i.e., early reductions). This allows sources that cannot install controls prior to May 31, 2004, to purchase other sources' early reduction credits in order to comply. Second, a state may issue some or all of the pool to sources that demonstrate a need for an extension of the May 31, 2004, compliance deadline due to undue risk to the electricity supply or other industrial sectors, and where early reductions are not available. See 40 CFR 51.121(e)(3). Alabama has opted to not participate in the Early Reduction Credit program. The compliance supplement pool will be reserved for those companies that demonstrate an actual need for the available allowance.

D. What Is the New Source Set-Aside Program?

The major difference between Alabama's rule and EPA's model rule is in the allocation of allowances. Alabama's SIP provides for no New Source Set-asides. Initial allocations submitted with this revision for the control periods in 2004, 2005, and 2006, and were given to those NO_X budget units in operation, permitted, or with complete permit application on or before October 2, 2000 (referred to as ''baseline units''). After this date there will be no allowances available for new sources unless an existing source shuts down. If an existing unit is shut down, a replacement unit constructed at the same site will be given priority in allowance allocations over new sources. The replacement unit must be of the same or less heat input capacity as the former unit. Once allocations are made to the replacement unit, other new units can qualify for excess allowances resulting from the shutdown. Future allocations will be distributed by April 1st of every third year (2004, 2007, 2010 etc.). Allocations will be calculated for three years each three year period (2004–2006, 2007–2009, etc.). This approach to allocations for new units is acceptable because it falls within the flexibility of the NO_X SIP Call requirements for a state's allocation to new sources.

III. Proposed Action

EPA is proposing to approve the Alabama's SIP revision consisting of its NO_X Reduction and Trading Program, which was submitted on March 12, 2001. EPA finds that Alabama's submittal is fully approvable because it meets the requirements of the Phase I NO_X SIP Call.

IV. 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 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 proposed 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 proposes to approve 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 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 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 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 proposed approval of the Alabama NO_X Reduction and Trading Program 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 8, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–12355 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 150–4108; FRL–6980–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Conversion of the Conditional Approval of the 15 Percent Plan for the Pennsylvania Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area to a Full Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to convert its conditional approval of a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania to a full approval. This revision satisfies the conditions imposed by EPA on our approval of the 15 percent reasonable further progress plan (15% plan) requirement of the Clean Air Act (the Act) for Pennsylvania's portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area). EPA is proposing to convert its conditional approval of this 15% plan to full approval because the Commonwealth has fulfilled its obligation and satisfied the conditions imposed in EPA's conditional approval of the 15% plan for the Philadelphia area. The intended effect of this action is to convert our conditional approval of Pennsylvania's 15% plan SIP for the Philadelphia area to a full approval.

DATES: Written comments must be received on or before June 15, 2001.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. They are also available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, by phone at: (215) 814–2176 (at the EPA Region III address above), or by e-mail at: rehn.brian@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On June 5, 1998, the Pennsylvania Department of Environmental Protection (PA DEP) submitted a revision to the Pennsylvania State Implementation Plan (SIP) for its portion of the Philadelphia ozone nonattainment area. The revision consists of an amendment to its plan to achieve a 15% reduction from 1990 base year levels in volatile organic compound (VOC) emissions. The previous version of Pennsylvania's 15% plan for its portion of the Philadelphia ozone nonattainment area was conditionally approved by EPA on June 9, 1997 (62 FR 31343). Pennsylvania's June 1998 revision to that 15% plan was done in order to satisfy conditions imposed by EPA in its conditional approval of the Commonwealth's plan.

The Philadelphia ozone nonattainment area consists of six counties in Southern New Jersey (Burlington, Camden, Cumberland, Gloucester, Mercer, and Salem), two counties in Northern Delaware (Kent and New Castle), one county in Maryland (Cecil), and five counties in Southeastern Pennsylvania (Bucks, Chester, Delaware, Montgomery, and Philadelphia). Each of the states comprising the multi-state ozone nonattainment area submitted its own 15% plan to achieve reasonable further progress towards attainment of the ozone standard. EPA has taken separate rulemaking action on each state's plan.

EPA is taking action today on the revised 15% plan SIP for Pennsylvania's portion of the Philadelphia nonattainment area, submitted to EPA by PA DEP on June 5, 1998. These revisions to the plan satisfy the conditions stipulated by EPA in its June 9, 1997 conditional approval of the previous Philadelphia 15% plan. Those approval conditions related to the I/M program upon which the 15% plan relies (and which were conditions of EPA's approval of the I/M program).

EPA is proposing in this rulemaking to convert the June 9, 1997 conditional approval of Pennsylvania's 15% plan for the Philadelphia area to a full approval. The basis for this action is that EPA has determined that Pennsylvania has

fulfilled all of the conditions imposed by EPA's conditional approval.

II. Pennsylvania's Calculation of the 15% Plan Target Level

As stated above, the subject of this rulemaking is Pennsylvania's June 5, 1998 revision to the 15% plan, submitted by the Commonwealth to remedy conditions imposed by EPA in its June 9, 1997 approval of the original 15% plan. These conditions of the June 9, 1997 approval are related to the I/M program and the modeling of the credits for that program that impact the target level of the 15% plan. Only those aspects of this target level calculation associated with the conditions of EPA's approval (*i.e.*, related to Pennsylvania's June 5, 1998 SIP revision) are the subject of today's proposed rulemaking action by EPA. For clarity, however, the entire calculation process is set forth below.

A. Base Year Emission Inventory

The baseline from which the required reductions towards the 15% plan goal are applied is the 1990 base year emission inventory. The first step in calculating a 15% target is a 15% plan 1990 base year inventory. The inventory is broken down into four emissions source sectors: stationary, or point, sources; area sources; on-road, or highway, mobile sources; and off-highway, or non-road, mobile sources. The base year inventory includes emissions of all sources within the nonattainment area and certain large point sources within twenty-five miles of the boundary.

For purposes of planning reasonable further progress towards attainment (*e.g.*, 15% planning), a subset of the 1990 base year inventory is used. This 1990 rate-of-progress (ROP) inventory includes only anthropogenic emissions that occurred within the boundaries of the subject nonattainment area. EPA approved Pennsylvania's 1990 base year inventory SIP revision for the Philadelphia area in its June 9, 1997 conditional approval of the 15% plan (62 FR 31343).

B. Growth in Emissions Between 1990 and 1996

EPA interprets the Clean Air Act to require that reasonable further progress towards attainment of the ozone standard must occur after offsetting any growth in the level of emissions expected to occur over the period being considered. To meet the 15% reasonable further progress requirement, a state must enact measures to offset projected growth in VOC emissions, in addition to a 15% reduction of 1996 VOC emissions (compared with 1990 levels). For a detailed description of the growth methodologies used by Pennsylvania, please refer to EPA's June 9, 1997 conditional approval of Pennsylvania's 15% plan (62 FR 31343), Pennsylvania's September 12, 1996 SIP (and related addendums), and the Technical Support Document (TSD) prepared for EPA's June 9, 1997 conditional approval action.

C. Enhanced Vehicle Inspection and Maintenance (I/M) Program

Both of the conditions listed in EPA's June 9, 1997 conditional approval of Pennsylvania's 15% plan for Philadelphia were related to Pennsylvania's enhanced I/M program for motor vehicles. The first of these conditions required Pennsylvania to ''meet the conditions listed in the January 28, 1997 conditional interim inspection and maintenance (I/M) rulemaking (approval) notice''. The second condition required Pennsylvania to remodel the I/M reductions credited towards the 15% plan using the EPA guidance memoranda: ''Modeling 15 Percent VOC Reductions from I/M in 1999—Supplemental Guidance'', from Gay McGregor and Sally Shaver, dated December 23, 1996. The policy for this I/M remodeling methodology is derived from another EPA guidance memoranda entitled, ''Date by which States Need to Achieve All the Reductions Needed for the 15 Percent Plan from I/M and Guidance for Recalculation,'' from John Seitz and Margo Oge, dated August 13, 1996.

With respect to the approval status of its I/M program SIP, Pennsylvania has remedied the related condition upon EPA's approval of the Philadelphia 15% plan. The I/M program had been conditionally approved by EPA (62 FR 4004, January 28, 1997). However, Pennsylvania has since revised the enhanced I/M program SIP to address the conditions of EPA's January 1997 approval. On June 17, 1999 (64 FR 32411), EPA published a direct final rule converting the conditional approval of Pennsylvania's I/M program to full approval. EPA's basis for conversion of the I/M program SIP to full approval was that Pennsylvania had remedied all of the conditions set forth in the January 28, 1997 conditional approval.

With respect to the condition upon approval of the 15% plan related to the claimed credits in the 15% plan for the I/M program SIP, Pennsylvania addressed this condition submitting a remodeling analysis of the I/M program benefits (following the guidelines set forth by EPA's guidance memos on the subject) in its June 5, 1998 SIP revision. That SIP revision is the subject of this proposed action. A discussion of the resulting recalculation of the highway mobile source projection inventory and the resultant 15% plan target level is discussed later in this action. Pennsylvania has properly followed EPA's guidance in its remodeling analysis.

D. Target Level Emissions/Emission Reductions Needed for the 15% Reduction

As part of its remodeling analysis to determine the amount of VOC reductions from the I/M program needed for the 15% plan, Pennsylvania remodeled the benefits from all of its 15% plan control measures that reduce highway source emissions. Highway mobile source emissions are modeled using an emission factor model called MOBILE. In assessing highway mobile source emissions, the benefits from all highway emission control strategies must be evaluated. In addition to the enhanced I/M program, such control measures include: the use of Federal reformulated gasoline (RFG) in highway vehicles and the implementation of new (*i.e.*, post-1990) vehicle standards that are part of the Federal Motor Vehicle Control Program (FMVCP). Per EPA guidance, this MOBILE remodeling demonstration compares the highway mobile source target level in 1999 versus the highway mobile source target level for 1996 performed for the original 15% plan.

EPA approves of the Commonwealth's remodeling demonstration submitted with the June 5, 1998 revised 15% plan. This revised plan properly accounts for the ''1996 target level'', which is then compared to the projections of actual ''1996 controlled emissions''.

EPA approves of the revised mobile source target level calculation for Philadelphia, and the resultant overall corrected target level. The overall corrected target level is 487.89 tons per day (tpd). A detailed description of the revised target level calculation process is described in more detail below, and in the Technical Support Document prepared in support of this proposed rulemaking action.

EPA's interpretation of section 182(b) of the Act requires states to adjust the base year VOC emission inventory for the 15% plan to account for non-creditable VOC reductions (*i.e.*, that were required to occur prior to the 1990 Clean Air Act Amendments). In calculating its target level, Pennsylvania's plan subtracts those reductions occurring between 1990 and 1996 from the pre-1990 FMVCP and low-RVP gasoline programs from the

1990 15% plan base inventory. The result is the ''1990 base year inventory adjusted to 1996''.

Pennsylvania's 15% plan relies upon reductions from an enhanced I/M program to achieve the required 15% level as soon after November 15, 1996 as practicable, but not later than 1999. Therefore, Pennsylvania was required to remodel the benefits of its I/M program in the 15% plan. EPA's applicable remodeling guidance requires that the base year inventory must also be calculated for 1999. This 1999 base year inventory must then be adjusted in the same way to remove non-creditable, pre-1990 control measure reductions from the inventory for the period from 1996 to 1999. Pennsylvania's 15% plan contains a calculation of those non-creditable emissions occurring between 1996 and 1999. These non-creditable emissions cannot be used toward the 15% plan goal, and they are therefore subtracted from the 1990 base year inventory for the 15% plan. The result yields the ''1990 base year inventory adjusted to 1999.''

Pennsylvania calculated a base 1996 VOC target level by taking 85% of the ''1990 adjusted base year inventory for 1996.'' Per EPA guidance, the non-creditable reductions were then subtracted from the ''base'' 1996 VOC target level to yield a ''final'' 1996 VOC target level for the 15% plan. See Table 1 below, for a summary of the calculation of the target level.

TABLE 1.—REQUIRED REDUCTIONS FOR THE PENNSYLVANIA PORTION OF THE METROPOLITAN PHILADELPHIA-WILMINGTON-TRENTON, PA-DE-NJ NONATTAINMENT AREA 15% PLAN

[Tons/day]

Steps	Calculation method	Tons per day (tpd)
Revised 15% Plan Target Level/I/M Remodeling Calculation: 5-County Philadelphia, PA Area		
1990 Rate-of-Progress Base Year Inventory		615.56
1. Calculate the 1990 base year inventory (relative to 1996)	[1996 MOBILE factor (w/CAA controls off) × 1990 VMT] + non-inventory mobile 1990 inventory.	582.53
2. Calculate the 1996 base year (relative to 1999)	[1999 MOBILE factor (w/CAA controls off) × 1990 VMT] + non-inventory mobile 1990 inventory.	576.11
3. Calculate non-creditable fleet turnover between 1996 and 1999.	1990 base (for 1996) − 1990 base (for 1999); or, (Step 2 − Step 1).	6.42
4. Calculate the ''base'' 1996 target level	1990 adjusted base (for 1996) × 0.85 − RACT Fix-Ups; or, (Step 1 × 0.85) − RACT fix-ups (0.84 tpd).	494.31
5. Correct the 1996 target level (''final'' target level)	1996 target level − 1996–1999 non-creditable emissions; or, (Step 4 − Step 3).	487.89
6. Projected 1996 Uncontrolled Emissions		617.95
7. Projected 1996 Controlled Inventory	Remodeled highway emissions + remainder of existing 1996 projected inventory (*i.e.,* point, area, non-road emissions) [84.58 + 151.15 + 153.98 + 81.33].	476.53
8. Required Emission Reductions for 15% plan	(Line 6 − Line 5)	130.06
Total Reductions Claimed from 15% Plan Control Measures		133.63

The reduction in emissions needed to meet the 15% reasonable further progress requirement equals the difference between the projected 1996 emissions under the pre-1990 Clean Air Act control strategy (i.e., the 1996 uncontrolled emissions) and the 15% plan target level. The difference between these two numbers reflects a 15% reduction from the adjusted base year inventory, including any additional reductions necessary to offset projected emissions growth between 1990 and 1996. For Philadelphia, the calculated target level is 487.89 tons per day. EPA is proposing to accept this final, corrected target level for the Pennsylvania portion of the Philadelphia area.

E. Determination That Revised 15% Plan Achieves Reasonable Further Progress

As part of the 15% plan I/M remodeling process, the inventory, target level, and projected reduction levels from the control measures claimed in the 15% plan were recalculated. After completion of the revised target level calculation, the Commonwealth was required to demonstrate that that the control measures in the 15% plan will ensure sufficient reductions to achieve the revised target level. Under the revised 15% plan, the emissions reductions claimed for the Philadelphia 15% plan increased from 127.91 tons per day to 133.63 tons per day.

EPA agrees with the Commonwealth's calculations and methodology used in the revised plan to justify this number. Pennsylvania properly employed EPA's guidance in calculating the revised estimates. EPA therefore concurs that Pennsylvania must achieve a reduction of at least 130.1 tons per day of creditable emission reductions to demonstrate that its portion of the Philadelphia ozone nonattainment area has met its 15% VOC reduction requirement, as required by the Clean Air Act. EPA believes that Pennsylvania's revised 15% plan has sufficient VOC reductions from its claimed, creditable measures to achieve the required 15% reduction. Pennsylvania claims 133.63 tons per day of VOC reductions, which is sufficient to ensure that reasonable further progress is achieved.

Table 2 below lists the creditable measures, and the VOC reductions claimed for those measures, in Pennsylvania's 15% plan for the Philadelphia area. It should be noted that these are the same measures approved by EPA in the June 9, 1997 conditional approval of Pennsylvania's 15% plan. Due to the I/M remodeling exercise, however, the level of credits associated with the highway mobile source control measures (*i.e.*, I/M, Tier 1 standards, and the Federal reformulated gasoline program) has changed. Since these measures and credit levels were approved by EPA previously, this rulemaking action applies only to the revised credit levels associated with the highway mobile source controls.

TABLE 2.—SUMMARY OF CONTROL MEASURES FOR THE 15% PLAN FOR THE PENNSYLVANIA PORTION OF THE PHILADELPHIA OZONE NONATTAINMENT AREA

Pennsylvania Portion of Philadelphia, PA 15% Plan Control Measures

Control measure	Approved by EPA	VOC reduction (tons per day)
Highway Mobile Source Control Measures		
Reformulated Gasoline Program	Federal rule	21.19
Enhanced I/M Program	SIP approved [June 17, 1999 (64 FR 32411)]	56.91
Tier 1 Motor Vehicle Standards (post-1990 FMVCP)	Federal rule	6.59
Non-Highway Measures (Point, Area, Non-road)		
Reformulated Gasoline Program—Non-road benefits	Federal rule	0.59
Stage II Gasoline Vapor Recovery	SIP approved [December 13, 1994 (60 FR 63938)]	17.02
AIM Coatings Reformulation	Federal rule	7.28
Consumer and Commercial Products Reformulation	Federal rule	6.58
Autobody Refinishing Reformulation	Federal rule	6.30
Treatment, Storage, & Disposal Facility (TSDF) Controls	Federal rule	9.35
Facility Shutdowns	Conditionally Approved Philadelphia 15% Plan approved use of specified banked shutdown credits (under PA banking rule, Chapter 127.206–209).	1.82
Total Creditable Emission Reductions		133.63

F. Transportation Conformity Budgets

As is the case with any 15% plan, Pennsylvania's 15% plan for its portion of the Philadelphia ozone nonattainment area contains a budget for VOC emissions from on-road mobile sources. By proposing approval of this 15% plan, EPA is proposing to grant a de facto approval of the budget in this plan. However, EPA wishes to clarify that the budget in Pennsylvania's 15% plan for the Philadelphia area will not be the applicable budget for future conformity determinations, because there are budgets for the Philadelphia area that supercede this plan that apply for 1999 and all subsequent years. To verify which budget applies to the Pennsylvania portion of the Philadelphia area, please contact the EPA Regional office listed in the **ADDRESSES** section above or consult EPA's ''Adequacy Review of SIP Submissions for Conformity'' web page at http://www.epa.gov/oms/transp/conform/adequacy.htm.

Proposed Action

After review of Pennsylvania's June 5, 1998 revision to the 15% plan SIP for its portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area, EPA has determined that the Commonwealth has remedied all of the EPA-imposed conditions listed in our June 9, 1997 conditional approval (62 FR 31343) of the 15% plan SIP for the Philadelphia area. EPA is therefore proposing to convert its conditional approval of Pennsylvania's 15% plan SIP for the Philadelphia area to a full approval.

EPA is soliciting public comments on this action to convert our conditional approval of the Philadelphia 15% plan to a full approval, based upon Pennsylvania's June 5, 1998 submittal to remedy the conditions. These comments will be considered before the Agency takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

I. 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 action merely proposes to approve 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 pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed 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 proposes to approve 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 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 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 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 proposed 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.*).

This proposed rule to convert the conditional approval of the 15% plan for the Pennsylvania portion of Philadelphia to a full approval 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: May 7, 2001.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–12354 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6978–9]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry; State of New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: Pursuant to section 112(l) of the Clean Air Act (CAA), New Hampshire Department of Environmental Services (NH DES) requested approval to implement and enforce State permit terms and conditions that substitute for the for the National Emissions Standards for Hazardous Air Pollutants from the Pulp and Paper Industry and the National Emissions Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-chemical Pulp Mills. In the Rules section of this **Federal Register**, EPA is granting NH DES the authority to implement and enforce alternative requirements in the form of title V permit terms and conditions after EPA has approved the state's alternative requirements. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by June 15, 2001.

ADDRESSES: Comments should be addressed to: Steven Rapp, Manager, Air Permits Program Unit, Office of Ecosystem Protection (mail code CAP), U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023.

Copies of the submitted request are available for public inspection at EPA's Region I office during normal business hours.

FOR FURTHER INFORMATION CONTACT: Susan Lancey, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023 Telephone: (617) 918–1656.

SUPPLEMENTARY INFORMATION: This document concerns NH DES's Equivalency by Permit program. For further information, please see the information provided in the direct final action which is located in the Rules section of this **Federal Register**.

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: May 2, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA-New England.

[FR Doc. 01–12040 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Docket No.: WA–01–001; FRL–6980–9]

Finding of Attainment for PM–10; Spokane PM–10 Nonattainment Area, Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rule.

SUMMARY: EPA is proposing to find that the Spokane nonattainment area in Washington has attained the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers (PM–10) as of December 31, 1997.

DATES: Written comments must be received on or before June 15, 2001.

ADDRESSES: Written comments should be mailed to Steven K. Body, Office of Air Quality, Mailcode OAQ–107, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Copies of documents relevant to this action are available for public review during normal business hours (8:00 am to 4:30 pm) at this same address.

FOR FURTHER INFORMATION CONTACT: Steven K. Body, Office of Air Quality, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101, (206) 553–0782.

SUPPLEMENTARY INFORMATION: Throughout this document, the words ''we'', ''us'', or ''our'' means the Environmental Protection Agency (EPA).

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I. Background

A. Designation and Classification of PM–10 Nonattainment Areas

Areas meeting the requirements of section 107(d)(4)(B) of the Clean Air Act (CAA) were designated nonattainment for PM–10 by operation of law and classified ''moderate'' upon enactment of the 1990 Clean Air Act Amendments. *See* generally 42 U.S.C. 7407(d)(4)(B). These areas included all former Group I PM–10 planning areas identified in 52 FR 29383 (August 7, 1987), as further clarified in 55 FR 45799 (October 31,

1990), and any other areas violating the NAAQS for PM–10 prior to January 1, 1989. A **Federal Register** document announcing the areas designated nonattainment for PM–10 upon enactment of the 1990 Amendments, known as ''initial'' PM–10 nonattainment areas, was published on March 15, 1991 (56 FR 11101) and a subsequent **Federal Register** document correcting the description of some of these areas was published on August 8, 1991 (56 FR 37654). The Spokane PM–10 nonattainment area was one of these initial moderate PM–10 nonattainment areas.

All initial moderate PM–10 nonattainment areas had the same applicable attainment date of December 31, 1994. Section 188(f) of the CAA provides the Administrator with the authority to waive a specific date for attainment of the standard under certain circumstances based on the relative contribution of anthropogenic and nonanthropogenic sources of PM–10 to violation of the PM–10 standard in the area. *See* 59 FR at 41998 (April 16, 1994).

B. How Does EPA Make Attainment Determinations?

All PM–10 nonattainment areas are initially classified ''moderate'' by operation of law when they are designated nonattainment. See section 188(a). Pursuant to sections 179(c) and 188(b)(2) of the CAA, we have the responsibility of determining within six months of the applicable attainment date whether, based on air quality data, PM–10 nonattainment areas attained the PM–10 NAAQS by that date. Determinations under section 179(c)(1) of the Act are to be based upon the area's ''air quality as of the attainment date.'' Section 188(b)(2) is consistent with this requirement.

Generally, we determine whether an area's air quality is meeting the PM–10 NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring stations (NAMS) in the nonattainment areas and entered into the EPA Aerometric Information Retrieval System (AIRS). Data entered into the AIRS has been determined to meet federal monitoring requirements (see 40 CFR 50.6, 40 CFR part 50, appendix J, 40 CFR part 53, 40 CFR part 58, appendix A and B) and may be used to determine the attainment status of areas. We also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring requirements for SLAMS. All data are reviewed to determine the area's air quality status in accordance with our guidance at 40 CFR part 50, appendix K.

Attainment of the annual PM–10 standard is achieved when the annual arithmetic mean PM–10 concentration over a three-year period (for example 1995, 1996, and 1997 for areas with a December 31, 1997, attainment date) is equal to or less than 50 micrograms per cubic meter (μg/m^3). Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with PM–10 concentrations greater than 150 μg/m^3. The 24-hour standard is attained when the expected number of days with levels above 150 μg/m^3 (averaged over a three-year period) is less than or equal to one. Three consecutive years of air quality data are generally required to show attainment of the annual and 24-hour standards for PM–10. See 40 CFR part 50 and appendix K.

C. What Is the Attainment Date for the Spokane PM–10 Nonattainment Area?

As stated above, the Spokane PM–10 nonattainment area was designated nonattainment for PM–10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act upon enactment of the Clean Air Act Amendments of 1990. See 40 CFR 81.348 (PM–10 Initial Nonattainment Areas); see also 56 FR 56694 (November 6, 1991). Under subsections 188(a) and (c)(1) of the Act, the original attainment date for the Spokane PM–10 nonattainment area, as well as for all other initial moderate PM–10 nonattainment areas, was December 31, 1994.

The Washington Department of Ecology (Ecology) submitted a SIP revision for the Spokane area on November 15, 1991 followed by addendums on January 31, 1992, December 9, 1994, and May 18, 1995. The December 1994 addendum included a more detailed technical analysis indicating that nonanthropogenic sources may be significant in the Spokane PM–10 nonattainment area during windblown dust events. Based on our review of the State's submissions, we deferred action on several elements in the Spokane SIP, approved the control measures in the SIP as meeting RACM/RACT for all sources except for windblown dust, and, under section 188(f) of the CAA, granted a temporary waiver to extend the attainment date for the Spokane area to December 31, 1997. See 61 FR 35998 (July 9, 1996) (proposed action); 62 FR 3800 (January 27, 1997) (final action). The temporary waiver was intended to provide Ecology time to evaluate further the Spokane nonattainment area and to determine the significance of the anthropogenic and nonanthropogenic sources impacting the area. Once these activities were complete or the temporary waiver expired, EPA was to make a decision on whether the area was eligible for a permanent waiver under section 188(f) of the CAA or whether the area had attained the standard by the extended attainment date. See 62 FR at 3802.

II. EPA's Proposed Action

As discussed above, whether an area has attained the PM–10 NAAQS is based exclusively upon measured air quality levels. See 40 CFR part 50 and 40 CFR 50, appendix K. For an area with a December 31, 1997, attainment date, such as the Spokane area, data reported for calendar years 1995, 1996, and 1997 are considered.

The Spokane County Air Pollution Control Authority (SCAPCA), the local air pollution control authority in Spokane County, established and operates six PM–10 SLAMS monitoring sites in the Spokane PM–10 nonattainment area. All six monitoring sites meet EPA SLAMS network design and siting requirements, set forth at 40 CFR part 58, appendices D and E, and have been monitoring for PM–10 since before1995.

The air quality data in AIRS for these monitors show that, for the three-year period from 1995 though 1997, there were no violations of the annual PM–10 standard. The highest annual arithmetic average measured during this three-year period was 32 μg/m^3 at the Crown Zellerbach monitoring site in 1995 and 1996. Based on this information, EPA has determined that the area attained the annual PM–10 standard as of the extended attainment date of December 31, 1997. A review of air quality data in AIRS for 1998 through 2000 also confirms that there have been no violations of the annual PM–10 standard subsequent to the attainment date.

With respect to the 24-hour PM–10 standard, a review of the air quality data in AIRS for the three-year period from 1995 through 1997 shows that there was one recorded exceedence of the 24-hour PM–10 standard in the Spokane PM–10 nonattainment area: a concentration of 186 μg/m^3 reported at the Crown Zellerbach site on August 30, 1996, which the State has claimed as attributable to a high wind ''natural event.'' The next highest 24-hour PM–10 concentration measured during this time period was 124 μg/m^3 at the Crown Zellerbach site on February 12, 1996.

Under section 107(d)(4)(B)(ii) of the CAA and 40 CFR part 50, appendix K,

section 2.4, specific exceedences due to uncontrollable natural events, such as unusually high winds, may be discounted or excluded entirely from decisions regarding an area's air quality status in appropriate circumstances. See Memorandum from EPA's Assistant Administrator for Air and Radiation to EPA Regional Air Directors entitled ''Areas Affected by Natural Events,'' dated May 30, 1996 (EPA's Natural Events Policy). Under the policy, where a State believes natural events have caused a violation of the NAAQS, the State enters the exceedence in the AIRS data base, flags the exceedence as being attributable to a natural event, documents a clear causal relationship between the measured exceedence and the natural event, and develops a natural events action plan (NEAP) to address future natural events. In the case of high-wind events where the sources of dust are anthropogenic, the State should also document that Best Available Control Measures (BACM) were required for those sources and that sources were in compliance with BACM at the time-of the high-wind event. EPA's Natural Events Policy also contains guidance for notifying the public of the occurrence of natural events and the health effects of such events, as well as minimizing public exposure to high concentrations of PM–10 due to natural events.

As discussed above, the State of Washington flagged the August 30, 1996, exceedence in the AIRS data base as an exceedence caused by high winds under EPA's Natural Events Policy EPA has concurred with that determination. Therefore, EPA has excluded this exceedence from consideration in determining whether the Spokane PM–10 nonattainment area attained the 24-hour. As a result, the expected number of days over the 24-hour standard for 1996 is 0.0 and, when averaged over the three-year period from 1995 through 1997, the three-year expected exceedence rate is also 0.0. EPA has therefore determined that the Spokane PM–10 nonattainment area attained the 24-hour PM–10 standard as of the extended attainment date of December 31, 1997.

Even if the August 30, 1996, exceedence was not excluded in determining the attainment status of the Spokane area, the data would still show attainment of the 24-hour PM–10 standard. Accounting for the sampling schedule and missing data, the expected number of days over the standard for 1996 would be 1.03 if the August 30, 1996, exceedence was not excluded. When averaged over the three-year period from 1995 through 1997, during which time no other exceedences were recorded in the Spokane area, the three-year expected exceedence rate is 0.34 days. This value is less than the expected exceedence rate for the 24-hour PM–10 standard of 1.0 that would represent a violation of the standard.

A review of air quality data in AIRS for 1998 through 2000 shows that there was one reported exceedence of the 24-hour standard during this time: 343 μg/m^3 on September 25, 1999, at the Crown Zellerbach monitor. The State has also flagged this exceedence in the AIRS data base as an exceedence caused by high winds under EPA's Natural Events Policy. EPA is still reviewing the documentation submitted to support the State's flagging of the September 25, 1999, exceedence as attributable to uncontrollable natural event. Once EPA has completed its review, EPA will notify the State regarding whether EPA will confirm the flagging of the exceedence as due to natural events. Even if the September 25, 1999, is exceedence is considered in determining the attainment status of the Spokane area, however, the data still show attainment of the 24-hour PM–10 standard as of the end of 2000. Accounting for the sampling schedule and missing data, the expected number of days over the 24-hour standard for 1999 is 1.04. When averaged over a three-year period, during which no other exceedences were recorded, the three-year expected exceedence rate is 0.35. This value is less than the expected exceedence rate for the 24-hour PM–10 standard of 1.0 that would represent a violation of the standard.

In summary, EPA proposes to find that the Spokane PM–10 nonattainment area attained the PM–10 NAAQS as of the extended attainment date of December 31, 1997. If we finalize this proposal, consistent with CAA section 188, the area will remain a moderate PM–10 nonattainment area and will avoid the additional planning requirements that apply to serious PM–10 nonattainment areas. This proposed finding of attainment should not be confused with a redesignation to attainment under CAA section 107(d). Washington has not submitted a maintenance plan as required under section 175(A) of the CAA or met the other CAA requirements for redesignations to attainment. The designation status in 40 CFR part 81 will remain moderate nonattainment for the Spokane PM–10 nonattainment area until such time as Washington meets the CAA requirements for redesignations to attainment.

We are soliciting public comments on EPA's proposal to find that the Spokane PM–10 nonattainment area has attained the PM–10 NAAQS as of the December 31, 1997, attainment date. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking process by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

III. 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 makes a determination based on air quality data and does not impose any requirements. 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 proposed rule does not impose any enforceable duty, 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 proposed 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 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 makes a determination based on air quality data and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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 proposed 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 in 40 CFR Part 81

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

Dated: April 30, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 01–12357 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[WV057–6016b; FRL–6979–9]

Determination of Attainment of the NAAQS for PM–10 in the Weirton, WV Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to determine that the Weirton, West Virginia PM–10 Moderate nonattainment area (comprised of the City of Weirton) attained the National Ambient Air Quality Standards (NAAQS) for Particulate Matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10) by its applicable December 31, 2000 attainment date. In the Final Rules section of this **Federal Register**, EPA is making this determination as a direct final rule without prior proposal because the Agency views this as a noncontroversial determination and anticipates no adverse comments. A more detailed description of EPA's evaluation is included in a Technical Support Document (TSD) prepared in support of this action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final notice based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by June 15, 2001.

ADDRESSES: Written comments should be addressed to David Arnold, Chief, Air Quality Planning and Information Services Branch Name, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Ruth E. Knapp, (215) 814–2191, at the EPA Region III address above or by e-mail at *knapp.ruth@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information on the determination that Weirton, West Virginia has attained the PM–10 NAAQS, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: May 1, 2001.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–12350 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1152, MM Docket No. 01–107, RM–10057]

Radio Broadcasting Services; Hemlock and Mount Pleasant, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Wilks Broadcasting LLC requesting the reallotment of Channel 233C1 from Mount Pleasant, Michigan, to Hemlock, Michigan, and modification of the license for Station WCEN–FM to specify Hemlock, Michigan, as the community of license. The coordinates for Channel 233C1 at Hemlock are 43–43–36 and 84–36–16. In accordance with section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 233C1 at Hemlock.

DATES: Comments must be filed on or before June 25, 2001, and reply comments on or before July 10, 2001.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Richard R. Zaragoza, Veronica D. McLaughlin, Shaw Pittman, 2300 N Street, NW., Washington, DC 20037–1128.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–107, adopted April 25, 2001 and released May 4, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805. Provisions of the Regulatory Flexibility Act of 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* contact.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended

by removing Channel 233C1 at Mount Pleasant and adding Hemlock, Channel 233C1.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–12268 Filed 5–15–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 01–1015, MM Docket No. 01–93, RM–10076]

Radio Broadcasting Services; McCall, ID and Pinesdale, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Idaho Broadcasting Consortium, Inc. requesting the substitution of Channel 294C1 for Channel 294C2 at McCall, Idaho, and reallotment of Channel 294C1 from McCall, Idaho, to Pinesdale, Montana, and modification of the construction permit for Channel 294C2 to specify operation on Channel 294C1 at Pinesdale, Montana, as its community of license. Channel 294A was allotted to McCall, Idaho, in MM Docket No. 86–350, 52 FR 42438, November 5, 1987. Idaho Broadcasting Consortium, Inc. filed a first-come/first-serve and one-step application for the allotment at McCall as a C2 allotment in lieu of a Class A allotment. Idaho Broadcasting Consortium, Inc. was granted a construction permit for Channel 294C2 at McCall on December 8, 1999 (BPH–19971023MD) (not published in the **Federal Register**)). The coordinates for Channel 294C1 at Pinesdale are 46–10–07 and 114–17–06. Canadian concurrence will be requested for this allotment. In accordance with section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 294C1 at Pinesdale.

DATES: Comments must be filed on or before June 11, 2001, and reply comments on or before June 26, 2001.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Laura A. Otis, Rosenman & Colin LLP, 805 15th Street, NW., 9th Floor, Washington, DC 20005–2212.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–93, adopted April 11, 2001, and released April 20, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805. Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Channel 294A at McCall.

3. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Pinesdale and Channel 294C1.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–12267 Filed 5–15–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 365, 385, and 387

[Docket No. FMCSA 97–2709 (formerly FHWA–97–2709)]

RIN 2126–AA26 (formerly RIN 2125–AE01)

Registration of For-Hire Motor Carriers, Property Brokers, and Freight Forwarders; Withdrawal

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); withdrawal.

SUMMARY: The FMCSA withdraws the notice of proposed rulemaking (NPRM) relating to proposed interim rules on the registration of for-hire motor property and passenger carriers, property brokers, and freight forwarders published in the **Federal Register** at 63 FR 7362 on February 13, 1998. This NPRM will be superseded by three rulemaking proceedings now in development that will impact the registration process: registration rules for new entrants as required by the Motor Carrier Safety Improvement Act of 1999 (MCSIA); registration rules for Mexican motor carriers operating in the United States under the North American Free Trade Agreement (NAFTA); and rules implementing a unified carrier registration system as required by the Interstate Commerce Commission Termination Act of 1995 (ICCTA). Maintaining an open docket on the proposed interim registration rules would be inconsistent with changes that FMCSA will propose in these proceedings.

DATES: The notice of proposed rulemaking published on February 13, 1998 at 63 FR 7362 is withdrawn as of June 15, 2001.

FOR FURTHER INFORMATION CONTACT: Angeli Sebastian, Chief, Driver and Carrier Operations, MC–PSD, (202) 366–4001, Federal Motor Carrier Safety Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Commission Termination Act of 1995 (ICCTA) (Pub. L.104–88, 109 Stat. 803) required the Secretary of Transportation to issue regulations replacing: (1) the current DOT identification number system, (2) the single State registration system under 49 U.S.C. 14504, (3) the registration system for for-hire motor carriers, property brokers and freight

forwarders under chapter 139 of title 49, and (4) the financial responsibility information system under 49 U.S.C. 13906 with a single on-line Federal system. Before implementation of this unified system, the ICCTA authorized the Secretary to continue registering for-hire motor carriers, property brokers and freight forwarders under the system in effect prior to the Act's January 1, 1996 effective date.

On February 13, 1998, the Federal Highway Administration (FHWA) (the agency responsible for registering motor carriers, property brokers and freight forwarders after the demise of the ICC and before the creation of the FMCSA) proposed revisions to the old ICC registration rules (recodified as 49 CFR part 365) to conform to statutory changes made by the ICCTA (63 FR 7362). These proposed regulations were to be interim rules because they were intended to remain in effect only until implementation of the unified registration system required by section 13908.

The FHWA published an advance notice of proposed rulemaking (ANPRM) on August 26, 1996, inviting public comment on the elements of the unified system envisioned by section 13908 (61 FR 43816). The FMCSA, after considering these comments, is developing a notice of proposed rulemaking that will supersede the proposed rules published on February 13, 1998. Furthermore, the FMCSA intends to soon propose additional revisions to part 365 in response to the new entrant requirements of section 210 of the MCSIA and has already proposed changes to part 365 to accommodate the anticipated expansion of Mexican motor carrier operations within the United States in accordance with NAFTA. Because of these developments, the NPRM is being withdrawn.

Issued on: May 10, 2001.

Julie Anna Cirillo,

Acting Deputy Administrator.

[FR Doc. 01–12348 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register
Vol. 66, No. 95
Wednesday, May 16, 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 COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Report of Requests for Restrictive Trade Practice or Boycott, Single or Multiple Transactions.

Agency Form Number: 621P, 6051P, 6051P–A.

OMB Approval Number: 0694–0012.

Type of Request: Extension of a currently approved collection of information.

Burden: 1,298 hours.

Average Hours Per Response: 121 to 151 minutes per response.

Number of Respondents: 1,177 respondents.

Needs and Uses: Used to carefully and accurately monitor requests for participation in foreign boycotts against countries friendly to the U.S. which are received by U.S. persons. Used to note trends in such boycott activity and to assist in carrying out U.S. policy of opposition to such boycotts.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230.

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 20230.

Dated: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12252 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Application for Transfer of License to Another Party.

Agency Form Number: None.

OMB Approval Number: 0694–0051.

Type of Request: Extension of a currently approved collection of information.

Burden: 11 hours.

Average Time Per Response: 66 minutes per response.

Number of Respondents: 10 respondents.

Needs and Uses: In certain circumstances (*i.e.*, company mergers, takeovers, etc.), it is necessary to transfer ownership of licenses to another party. The information collected is necessary to ensure that all parties are aware of and agree to the transfer, both of the ownership as well as responsibilities associated with export authorizations.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, DOC Paperwork Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230.

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 20230.

Dated: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12253 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Special Comprehensive License.

Agency Form Number: BXA–748P, BXA–752.

OMB Approval Number: 0694–0089.

Type of Request: Extension of a currently approved collection of information.

Burden: 1,017 hours.

Average Time Per Response: 50 minutes to 40 hours per response.

Number of Respondents: 176 respondents.

Needs and Uses: The SCL Procedure authorizes multiple shipments of items from the U.S. or from approved consignees abroad who are approved in advance by BXA to conduct the following activities: servicing, support services, stocking spare parts, maintenance, capital expansion, manufacturing, support scientific data acquisition, reselling and reexporting in the form received, and other activities as approved on a case-by-case basis.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230.

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 20230.

Dated: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of Management and Organization.

[FR Doc. 01–12254 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Reporting and Recordkeeping Requirements Under the Wassenaar Arrangement.

Agency Form Number: N/A.

OMB Approval Number: 0694–0106.

Type of Request: Extension of a currently approved collection of information.

Burden: 559 hours.

Average Time Per Response: 12 minutes per response.

Number of Respondents: 1,525 respondents.

Needs and Uses: To fulfill U.S. commitments to the Wassenaar Arrangement with regard to dual-use items, Section 743 of the EAR imposes reporting and recordkeeping requirements for license exception exports of certain items controlled under the Wassenaar Arrangement.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: David Rostker.

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.

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 20230.

Dated: May 10, 2001.

Madeleine Clayton,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12255 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committees

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of Public Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Public Law 92–463, as amended by Pub. L. 94–409, Pub. L. 96–523, and Pub. L. 97–375), we are giving notice of a joint meeting followed by separate and concurrently held meetings of the Census Advisory Committees (CAC) on the African American Population, the American Indian and Alaska Native Populations, the Asian Population, the Native Hawaiian and Other Pacific Islander Populations, and the Hispanic Population. The Committees will give de-briefings regarding Census 2000 programs and operations, as well as address issues related to 2010 census effort, including the American Community Survey, and related decennial programs. The five Census Advisory Committees on Race and Ethnicity will meet separately and concurrently in the morning and in the afternoon. Last minute changes to the schedule are possible, which could prevent us from giving advance notice.

DATES: June 19–20, 2001. The June 19 meeting will begin at 8:15 a.m. and end at approximately 5:30 p.m. The June 20 meeting will begin at 8:15 a.m. and end at 5:30 p.m.

ADDRESSES: The meeting will be held at Sheraton Reston Hotel, 11810 Sunrise Valley Drive, Reston, VA 20191.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 3619, Federal Building 3, Washington, DC 20233, telephone 301–457–2075, TDD 301–457–2540.

SUPPLEMENTARY INFORMATION: The CACs on the African American Population, the American Indian and Alaska Native Populations, the Asian Population, the Hispanic Population, and the Native Hawaiian and Other Pacific Islander Populations are comprised of nine members each. The Secretary of Commerce appoints the members. The Committees provide an organized and continuing channel of communication between the representative communities and the Census Bureau. The Committee provides an outside user perspective about how research and design plans for the 2010 decennial census, and the development of the American Community Survey and other related programs, will realize decennial census goals and satisfy their representative community needs. They assist the Census Bureau in determining ways that census data can best be disseminated to their communities and other users.

All meetings are open to the public, and a brief period will be set aside on June 20 for public comment and questions. Individuals with extensive questions or statements must submit them in writing to the Committee Liaison Officer, named above, at least three days before the meeting. Seating is available to the public on a first-come, first-serve basis.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Committee Liaison Officer.

Dated: May 9, 2001.

William G. Barron, Jr.,

Acting Director, Bureau of the Census.

[FR Doc. 01–12248 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Decennial Census Advisory Committee

AGENCY: Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Public Law 92–463, as amended by Pub. L. 94–409, Pub. L. 96–523, and Pub. L. 97–375), we are giving notice of a meeting of the Decennial Census Advisory Committee. The Committee will give a debriefing regarding Census 2000 programs and operations, as well as address issues related to the 2010 census effort, including the American Community Survey, and other related decennial programs. Last minute changes to the schedule are possible, which could prevent us from giving advance notice.

DATES: June 21–22, 2001. On Thursday, June 21, the meeting will begin at 8:30 a.m. and end at approximately 5:15 p.m.

On Friday, June 22, the meeting will begin at 8:30 a.m. and adjourn at approximately 3 p.m.

ADDRESSES: The meeting will be held at the Sheraton Reston Hotel, 11810 Sunrise Valley Drive, Reston, VA 20191.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 3627, Federal Building 3, Washington, DC 20233, telephone 301–457–2075, TDD 301–457–2540.

SUPPLEMENTARY INFORMATION: The Decennial Census Advisory Committee is composed of a Chair, Vice-Chair, and up to 40 member organizations, all appointed by the Secretary of Commerce. The Committee considers the goals of the decennial census and users' needs for information provided by that census. The Committee provides an outside user perspective about how research and design plans for the 2010 decennial census, and the development of the American Community Survey and other related programs, will realize those goals and satisfy those needs. The members of the Advisory Committee draw on their experience with Census 2000 planning and operational processes, results of research studies, test censuses, and results of the Census 2000 Evaluation Program, to provide input on the design and related operations of the 2010 decennial census, the American Community Survey, and other related decennial programs.

A brief period will be set aside at the meeting for public comment. However, individuals with extensive statements for the record must submit them in writing to the Census Bureau Committee Liaison Officer named above at least three working days prior to the meeting. Seating is available to the public on a first-come, first-serve basis.

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Census Bureau Committee Liaison Officer.

Dated: May 11, 2001.

Lee Price,

Acting Under Secretary for Economic Affairs, Economics and Statistics Administration.

[FR Doc. 01–12381 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results and partial rescission of fourth new shipper review and rescission of third antidumping duty administrative review.

SUMMARY: On January 8, 2001, the Department of Commerce published the preliminary results and partial rescission of the fourth new shipper review and the preliminary rescission of the third antidumping duty administrative review of the antidumping duty order on brake rotors from the People's Republic of China. *See Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 1303 (January 8, 2001) (*Preliminary Results*). The new shipper review initially covered two respondents and the administrative review was requested for three exporter/producer combinations (*see* ''Background'' section below for further discussion). The period of review is April 1, 1999, through March 31, 2000. We gave interested parties an opportunity to comment on our preliminary results.

Based on the additional publicly available information used in these final results and the comments received from the interested parties, we have made changes in the margin calculation for the one respondent in the new shipper review. The final weighted-average dumping margin for the reviewed firm in the new shipper review is listed below in the section entitled ''Final Results of New Shipper Review.''

EFFECTIVE DATE: May 16, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Brian Ledgerwood, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–3836.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations are to 19 CFR part 351 (2000).

Background

On January 9, 2001, the Department published in the **Federal Register** the preliminary results and partial rescission of the fourth new shipper review and rescission of the third antidumping duty administrative review of the antidumping duty order on brake rotors from the People's Republic of China (''PRC'') (66 FR 1303). The petitioner[1] submitted its case brief on March 15, 2001. The respondents[2] submitted their rebuttal brief on March 22, 2001.

On April 9, 2001, we placed on the record additional publicly available information for pallet wood for consideration in the final results and provided the parties with an opportunity for comment. On April 16, 2001, both parties submitted comments on this additional information.

The Department has conducted these reviews in accordance with section 751 of the Act.

Scope of the Reviews

The products covered by these reviews are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all-terrain

[1] The petitioner is the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers.

[2] The respondent in the new shipper review is Hongfa Machinery (Dalian) Co., Ltd. (''Hongfa''). The respondents in the administrative review are the following exporters/producer combinations (which are excluded from the order on brake rotors only with respect to brake rotors sold through those combinations): (1) China National Automobile Industry Import & Export Corporation (''CAIEC'') or Shandong Laizhou CAPCO Industry (''Laizhou CAPCO'')/(Laizhou CAPCO; (2) Sheyang Honbase Machinery Co., Ltd. (''Sheyang Honbase'') or Laizhou Luyuan Automobile Fittings Co., Ltd. (''Laizhou Luyuan'')/Shenyang Honbase or Laizhou Luyuan; and (3) China National Machinery and Equipment Import & Export (Xinjiang) Co., Ltd. (''Xinjiang'')/Zibo Botai Manufacturing Co., Ltd. (''Zibo'').

vehicles, vans and recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') which produces vehicles sold in the United States (*e.g.,* General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in these reviews are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of these reviews are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of these reviews is dispositive.

Partial Rescission of New Shipper Review

We have rescinded the new shipper review with respect to Luoyang Haoxiang Brake Disc Factory (''Luoyang'') because Luoyang did not respond to the Department's supplemental questionnaire. Section 776(a)(2) of the Tariff Act provides that ''if an interested party or any other person (A) withholds information that has been requested by the administering authority or the Commission under this title, (B) fails to provide such information by the deadlines for submission of the information or in the from and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority and the Commission shall, subject to subsection 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

Section 776(b) of the Act provides that the Department may use an inference that is adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for necessary information. *See also* Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103–316 (1994) (SAA) at 870. Failure by Luoyang to respond to the Department's antidumping questionnaire constitutes a failure to act to the best of its ability to comply with a request for information within the meaning of section 776(b) of the Act. As a consequence of Luoyang's decision to discontinue participation in this review, the Department canceled verification of Luoyang's questionnaire response, including its separate rate information. Luoyang's failure to respond to the Department's supplemental questionnaire constitutes a failure to act to the best of its ability to comply with a request for information within the meaning of Section 776(b) of the Act. Therefore, we considered Luoyang to be an uncooperative respondent and made the adverse assumption that Luoyang does not qualify for a separate rate. Thus, we have treated it as part of the NME entity. As part of the NME entity, Luoyang is not entitled to a rate as a new shipper, because the NME entity as a whole was subject to the less-than-fair-value (''LTFV'') investigation. Consequently, we have rescinded the new shipper review of Luoyang. *See Preliminary Results*, 66 FR at 1303.

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(3), we have determined that, during the period of review (''POR''), the exporters which received zero rates in the LTFV investigation did not make shipments of subject merchandise to the United States during the POR through a non-excluded exporter/producer combination. Specifically, we have determined that during the POR, (1) neither CAIEC nor Laizhou CAPCO exported brake rotors to the United States that were manufactured by producers other than Laizhou CAPCO; (2) neither Shenyang Honbase nor Laizhou Luyuan exported brake rotors to the United States that were manufactured by producers other than Shenyang Honbase or Laizhou Luyuan; and (3) Xinjiang did not export brake rotors to the United States that were manufactured by producers other than Zibo (see Memorandum dated October 25, 2000, from Brian C. Smith, Team Leader, to the File, titled, ''Results of Request for Assistance from the U.S. Customs Service to Further Examine U.S. Entries Made By Exporter/Producer Combinations'') (''October 25, 2000, memorandum''). In order to make this determination, we first examined POR-subject merchandise shipment data furnished by the Customs Service by performing a Customs data query. Since the data from our initial Customs query was voluminous, we randomly selected 23 entries from the data query results for further examination by the Customs Service. Specifically, we requested the Customs Service to examine further the documentation filed at the U.S. port for each of those selected entries made by the exporters at issue to determine the manufacturer of the merchandise. Based on the results of our query (*see* October 25, 2000, memorandum), the petitioner in this review filed comments in its case brief alleging that 12 of the 23 entries represented situations where the entry may not have been based on an excluded exporter/producer combination. As a result of the petitioner's comments, we re-examined the record data for the 12 entries at issue and requested additional clarification from the Customs Service on three of them. Based on our re-examination and clarification of the data on the record for these entries, we found no evidence that any of the exporter/producer combinations which are the subject of this administrative review made shipments of subject merchandise during the POR through a non-excluded exporter/producer combination. (*See* ''Issues and Decision Memorandum'' (''Decision Memo'') from Richard W. Moreland, Deputy Assistant Secretary for Import Administration, to Bernard T. Carreau, fulfilling the duties of Assistant Secretary for Import Administration, dated May 8, 2001 (Comment 2), and Memorandum dated May 8, 2001, from Brian C. Smith, Team Leader, to the File, titled, ''Clarification of 12 U.S. Entries Made By Exporter/Producer Combinations Included in the Department's September 28, 2000, Request for Further Information from the U.S. Customs Service on Selected Brake Rotor Entries During the Period of Review'' for further discussion.) Therefore, we are rescinding this review with respect to CAIEC, Laizhou CAPCO, Shenyang Honbase, Laizhou Luyuan, and Xinjiang.

Analysis of Comments Received

All issues raised in the case briefs are addressed in the Decision Memo, which is hereby adopted by this notice. A list of the issues raised, all of which are in the Decision Memo, is attached to this

notice as an Appendix. Parties can find a complete discussion of all issues raised in the briefs and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov*. The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on the use of additional publicly available information and the comments received from the interested parties, we have made changes in the margin calculation for the one respondent that cooperated fully in the new shipper review. For a discussion of this change, see the ''Margin Calculations'' section of the Decision Memo.

Final Results of New Shipper Review

We determine that the following weighted-average margin percentage exists for the period April 1, 1999, through March 31, 2000:

Exporter	Margin (percent)
Hongfa Machinery (Dalian) Co., Ltd	0.00

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries of subject merchandise during the POR from Hongfa for which the import-specific assessment rate is zero or *de minimis* (*i.e.,* less than 0.50 percent). In accordance with 19 CFR 351.212(b), we have calculated importer-specific *ad valorem* duty assessment rates. We will direct the Customs Service to assess the resulting percentage margin against the entered Customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period. For entries from the PRC non-market economy (''NME'') entity companies (*i.e.,* PRC exporters which are not entitled separate rates (including Luoyang), the Customs Service shall assess *ad valorem* duties at the PRC-wide rate. Because the PRC-wide entity was not reviewed during this POR, the PRC-wide rate remains the rate which was established in the less-than-fair-value investigation. For entries made by PRC companies for which the Department has rescinded the administrative review (*i.e.,* the exporter/producer combinations listed in the ''Background'' section of this notice), the Customs Service shall continue not to assess ad valorem duties on those entries made by those exporter/producer combinations.

Cash Deposit Requirements

The following deposit rates shall be required for merchandise subject to the order entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(1) and 751(a)(2)(B) of the Act: (1) The cash deposit rate for Hongfa will be the rate indicated above; (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding, but for whom the Department has rescinded the review or of whom the review was not requested for this POR will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME entity (*i.e.,* all other exporters, including Luoyang, which have not been reviewed) will continue to be 43.32 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.213 and 351.214.

May 8, 2001.

Timothy J. Hauser,

Acting Under Secretary for International Trade.

Appendix—Issues in Decision Memo

Comments

1. Rescission of Third Administrative Review Based on the Results of the Department's Customs Data Query
2. Alleged Violation of Exporter/Producer Combinations Excluded from the Order Based on Examination of Selected U.S. Brake Rotor Entries During the Period of Review
3. Surrogate Value Selection for Pallet Wood

[FR Doc. 01–12379 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–805]

Circular Welder Non-Alloy Steel Pipe From Mexico: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of antidumping duty administrative review.

SUMMARY: In January 31, 2001, the Department of Commerce (''the Department'') published in the **Federal Register** (66 FR 8378) a notice announcing the initiation of an administrative review of the antidumping duty order on circular welded non-alloy steel pipe from Mexico. This administrative review covered two Mexican manufacturers of circular welded non-alloy steel pipe, Tuberia Nacional S.A. de C.V. (''TUNA'') and Tuberias Procarsa, S.A. de C.V. (''Procarsa''), for the period of November 1, 1999 through October 31, 2000. The Department has now rescinded this review as a result of requests by both parties to withdraw from the review.

EFFECTIVE DATE: May 16, 2001.

FOR FURTHER INFORMATION CONTACT: John Drury or Steve Bezirganian, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 7866, Washington, DC 20230; telephone (202) 482–0195 or (202) 482–1131, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR part 351 (2000).

Scope of the Review

The products covered by these orders are circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A–53 specifications. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in these orders.

All carbon steel pipes and tubes within the physical description outlined above are included within the scope of these orders, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the United States as line pipe of a kind used for oil or gas pipelines is also not included in these orders.

Imports of the products covered by these orders are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

Background

The Department published an antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico on November 2, 1992 (57 FR 49453). The Department published a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order for the 1999/2000 review period on November 8, 2000 (65 FR 66965). Respondents TUNA, Procarsa, and Hylsa S.A. de C.V. (''Hylsa'') requested that the Department conduct an administrative review of the antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico. Hylsa withdrew its request for administrative review on December 19, 2000. We initiated this review for respondents TUNA and Procarsa on January 31, 2001. See 66 FR 8378.

The Department received timely requests for withdrawal from the administrative review from TUNA on February 23, 2001, and from Procarsa on March 9, 2001. The applicable regulation, 19 CFR 351.213(d)(1), states that the Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. In light of the fact that all of the parties who initially requested an administrative review have withdrawn their requests in a timely manner, we are rescinding this review.

This notice is published in accordance with 19 CFR 351.213(d)(4).

Dated: April 26, 2001.

Richard O. Weible,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–12380 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–824]

Notice of Extension of the Time Limit for Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 16, 2001.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0165.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2000).

Background

On October 30, 2000, the Department published a notice of initiation of the administrative review of the antidumping duty order on Stainless Steel Sheet and Strip in Coils from Italy, covering the period January 4, 1999 through June 30, 2000 (65 FR 64662). On January 8, 2001, the Department extended the preliminary results of review by 90 days. *See Notice of Extension of the Time Limit for Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From Italy,* 66 FR 1310 (January 8, 2001). The preliminary results are currently due no later than July 1, 2001.

Extension of Time Limit for Preliminary Results

Because of the complex issues enumerated in the Memorandum from Edward C. Yang to Joseph A. Spetrini, *Extension of Time Limit for the Preliminary Results of Administrative Review of Certain Stainless Steel Sheet and Strip in Coils from Italy,* dated May 9, 2001, and on file in the Central Records Unit (CRU) of the Main Commerce Building, Room B–099, we find that it is not practicable to complete the preliminary results of this review by the scheduled deadline. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is further extending the time period for issuing the preliminary results of review by 30 days (*i.e.,* until July 31, 2001).

Dated: May 9, 2001.

Richard O. Weible,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–12378 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051001C]

Monthly Cold Storage Report

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 July 16, 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 Barbara K. O'Bannon, U.S. Department of Commerce, NOAA, National Marine Fisheries Service, Fisheries Statistics and Economics Division, F/ST1, Room 12326, 1315 East-West Highway, Silver Spring, MD 20910 (phone 301–713–2328, ext. 206).

SUPPLEMENTARY INFORMATION:

I. Abstract

NOAA collects monthly data on the quantity of fish and shellfish being held in cold storage in the United States. Data are collected under authority of Section 742(d) of the Fish and Wildlife Act of 1956 as amended (16 U.S.C. 742(A) and provisions of Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. l801 *et seq.*) as amended. Responses are voluntary. Monthly reports are published and are used by the fishing industry to plan purchases, processing, sales, distribution, and prices for both wholesale and retail of fishery products. monthly. Both monthly and annual documents are available on the Internet at http://www.st.nmfs.gov/st1/.

II. Method of Collection

Paper forms are mailed to respondents.

III. Data

OMB Number: 0648–0015.
Form Number: NOAA Form 88–16.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 103.
Estimated Time Per Response: 8 minutes.
Estimated Total Annual Burden Hours: 165.
Estimated Total Annual Cost to Public: $0.

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: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12361 Filed 5–16–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051001D]

Weather Modification Activities Reports

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 July 16, 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 Karen King, R/WA, Room 11216, 1315 East-West Highway, Silver Spring MD 20910–3282 (phone 301–713–0460, ext. 202).

SUPPLEMENTARY INFORMATION:

I. Abstract

Section 6(b) of Pub. L. 92–205 requires that persons who engage in weather modification activities (e.g. cloud-seeding) provide reports prior to and after the activity. They are also required to maintain certain records. The requirements are detailed in 15 CFR 908. NOAA uses the data for scientific research, historical statistics, international reports, and other purposes.

II. Method of Collection

Paper forms and recordkeeping are used.

III. Data

OMB Number: 0648–0025
Form Number: NOAA Forms 17–4 and 17–4A.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 40
Estimated Time Per Response: 30 minutes per report, 5 hours per year for recordkeeping.
Estimated Total Annual Burden Hours: 240
Estimated Total Annual Cost to Public: $160.

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: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12362 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–KD–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051001E]

Marine Recreational Fishery Statistics Survey

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 July 16, 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 the 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 Dr. David A. Van Voorhees, U. S. Department of Commerce, NOAA, National Marine Fisheries Service, Fisheries Statistics & Economics Division, F/ST1, Room 12454, 1315 East-West Highway, Silver Spring, MD 20910 (phone: 301–713-2328, ext. 154).

SUPPLEMENTARY INFORMATION:

I. Abstract

Marine recreational anglers are surveyed for catch and effort data, fish biology data, and angler socioeconomic characteristics. These data are required to carry out provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), as amended, regarding conservation and management of fishery resources.

II. Method of Collection

A random-digit-dialing telephone survey of coastal zone households collects data on the proportion of marine fishing households and the number of shore and private/rental boat fishing trips by residents of those households. A directory telephone survey of boat operators collects data on the numbers of angler fishing trips on party and charter boats. On-site intercept interviews of marine recreational anglers collect data on the catch per trip by species. Supplemental surveys collect economic data about marine recreational fishing.

III. Data

OMB Number: 0648–0052.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Individuals or households, business or other for-profit organizations.
Estimated Number of Respondents: 585,383.
Estimated Time Per Response: 7 minutes for fishing households, 7 minutes for party/charter boat operators, 4.5 minutes for intercepted anglers, 3 minutes for supplemental economic data from fishing households, 5 minutes for supplemental economic data from party/charter boat operators, 8 minutes for supplemental economic data from intercepted anglers, 1.5 minutes for verification calls, 1 minute for non-fishing households, .5 minutes for non-households.
Estimated Total Annual Burden Hours: 27,207.
Estimated Total Annual Cost to Public: $0.

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: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12364 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051001F]

Processed Products Family of Forms

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 July 16, 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 the 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 Steven J. Koplin, F/ST1, Room 12456, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2328, ext. 209).

SUPPLEMENTARY INFORMATION:

I. Abstract

NOAA annually collects information from seafood and industrial fishing processing plants on the volume and value of their processed fishery products and their monthly employment figures. NOAA also

monthly collects information on the production of fish meal and oil. The information gathered is used by NOAA in the economic and social analyses used when proposing and evaluating fishery management actions.

II. Method of Collection

Paper forms are sent to respondents. NOAA is in the process of developing the capability for the online submission of requested data.

III. Data

OMB Number: 0648–0018.

Form Number: NOAA Forms 88–13, 88–13C.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,320.

Estimated Time Per Response: 30 minutes for an Annual Processed Products Report and 15 minutes for a Fishery Products Report Fish Meal and Oil, Monthly.

Estimated Total Annual Burden Hours: 680.

Estimated Total Annual Cost to Public: $0.

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: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12366 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.050801A]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of availability and request for comments.

SUMMARY: This notice advises the public that the Nez Perce Indian Tribe has submitted a Tribal resource management plan (Tribal Plan) to NMFS pursuant to the limitation on take prohibitions for actions conducted under Tribal Plans promulgated under the Endangered Species Act. The Tribal Plan specifies the management of recreational, ceremonial, and subsistence fisheries in 2001 in the Imnaha River basin in the State of Oregon that potentially affect Snake River spring/summer chinook salmon listed as threatened under the ESA. This document serves to notify the public of the availability for comment of the proposed evaluation of the Secretary of Commerce (Secretary) as to how the Tribal Plan addresses the criteria in the ESA.

DATES: Written comments on the Secretary's pending determination must be received no later than 5 p.m. Pacific Standard Time on May 29, 2001.

ADDRESSES: Written comments and requests for copies of the pending determination should be addressed to Herb Pollard, Sustainable Fisheries Division, 10215 W. Emerald St. Suite 180, Boise, ID 83704. Comments may also be sent via fax to 208/378–5699. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Herb Pollard at phone number: 208/378–5614, or e-mail: *herbert.pollard@noaa.gov*.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Imnaha River basin population of the Snake River Spring/Summer Chinook salmon (*Oncorhynchus tshawytscha*) Evolutionarily Significant Unit (ESU).

Background

The Nez Perce Tribe has submitted to NMFS a Tribal Plan for recreational, ceremonial, and subsistence fisheries in 2001 in the Imnaha River basin potentially affecting threatened Snake River spring/summer chinook salmon. The Tribal Plan includes recreational fisheries specified by the Oregon Department of Fish and Wildlife, acting as an agent of the Nez Perce Tribe, that take place in the same waters and in the same timeframe as the tribal ceremonial and subsistence fisheries. The Nez Perce Tribe and the State of Oregon have co-manager responsibilities for spring chinook salmon within the Imnaha River sub-basin and manage this salmon population under cooperative agreements. The objective of the Tribal Plan is to harvest spring chinook in a manner that does not jeopardize the survival and recovery of the ESU. Impact levels to the listed spring chinook populations in the ESU are specified in the Tribal Plan. Analysis of the predicted return of naturally and hatchery-produced spring chinook salmon to the Imnaha River basin in 2001 and the proposed harvest levels indicate that all hatchery brood stock and supplemental spawning needs will be met and natural spawning escapement will be approximately 133 percent of the previously highest count, after the proposed fisheries. A variety of monitoring and evaluation tasks to be conducted by the co-managers is specified in the Tribal Plan to assess the abundance of spring chinook and to determine fishery effort and catch of spring chinook. A comprehensive review of the Tribal Plan to evaluate whether the fisheries and listed spring chinook populations are performing as expected will be done within and at the end of the proposed 2001 season.

As required by the ESA 4(d) rule for Tribal Plans (65 FR 42481, July 10, 2000), the Secretary is seeking public comment on his pending determination as to whether the Tribal Plan for Imnaha River chinook salmon would appreciably reduce the likelihood of survival and recovery of the threatened Snake River spring/summer chinook salmon ESU.

Under section 4 (d) of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. NMFS has issued a final ESA 4(d) Rule for Tribal Plans adopting regulations necessary and advisable to harmonize statutory conservation requirements with tribal rights and the Federal trust responsibility to tribes (65 FR 42481, July 10, 2000). This 4(d) Rule for Tribal Plans applies the prohibitions enumerated in section 9(a)(1) of the ESA. NMFS did not find it necessary and advisable to apply the take prohibitions described in section 9(a)(1)(B) and 9 (a)(1)(C) to fishery harvest activities if the fisheries are

managed in accordance with a Tribal Plan that has been approved by NMFS. As specified in the 4(d) Rule, before the Secretary makes a decision on the Tribal Plan, the public must have an opportunity to review and comment on the pending determination.

Authority

Under section 4 of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of the species listed as threatened. The ESA Tribal 4(d) Rule (65 FR 42481, July 10, 2000) states that the ESA section 9 take prohibitions will not apply to Tribal Plans that will not appreciably reduce the likelihood of survival and recovery for the listed species.

Dated: May 10, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–12360 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 000616180–1115–03]

RIN 0648–ZA91

NOAA Climate and Global Change Program, Program Announcement

AGENCY: Office of Global Programs, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Climate and Global Change Program represents a National Oceanic and Atmospheric Administration (NOAA) contribution to evolving national and international programs designed to improve our ability to observe, understand, predict, and respond to changes in the global environment. This program builds on NOAA's mission requirements and long-standing capabilities in global change research and prediction. The NOAA Program is a key contributing element of the U.S. Global Change Research Program (USGCRP), which is coordinated by the interagency Committee on Environmental and Natural Resources. NOAA's program is designed to complement other agencies' contributions to that national effort.

All proposals must be submitted in accordance with the requirements below. Failure to heed these guidelines will result in proposals being returned without review.

DATES: Unless otherwise noted, strict deadlines for submission to the FY 2002 process are: Letters of intent must be received at the Office of Global Programs (OGP) no later than July 2, 2001. Applicants who have not received a response to their letter of intent within four weeks should contact the Program Manager. Full proposals must be received at OGP no later than August 27, 2001. The time from receipt of proposals to grant award varies by program area. We anticipate that review of full proposals will occur during October and November 2001, and funding should begin during spring of 2002 for most approved projects. Applicants should be notified of their status within six months. April 1, 2002, should be used as the proposed start date on proposals, unless otherwise directed by the appropriate Program Manager.

ADDRESSES: Letters of Intent and Proposals should be submitted to: Office of Global Programs; National Oceanic and Atmospheric Administration; 1100 Wayne Avenue, Suite 1210; Silver Spring, MD 20910–5603

FOR FURTHER INFORMATION CONTACT: Irma duPree at the above address, or at (301) 427–2089 ext. 107, fax: (301) 427–2222, Internet: irma.duPree@noaa.gov.

SUPPLEMENTARY INFORMATION:

1. Funding Availability

NOAA believes that the Climate and Global Change Program will benefit significantly from a strong partnership with outside investigators. Current Program plans assume that over 50% of the total resources provided through this announcement will support extramural efforts, particularly those involving the broad academic community. However, please be advised that actual funding levels will depend upon the final FY 2002 budget appropriations. This Program Announcement is for projects to be conducted by investigators both inside and outside of NOAA, primarily over a one, two or three year period. The NOAA Climate and Global Change Program has been approved for multi-year funding up to a three year duration. The funding instrument for extramural awards will be a grant unless it is anticipated that NOAA will be substantially involved in the implementation of the project, in which case the funding instrument should be a cooperative agreement. Examples of substantial involvement may include but are not limited to proposals for collaboration between NOAA or NOAA scientists and a recipient scientist or technician and/or contemplation by NOAA of detailing Federal personnel to work on proposed projects. NOAA will make decisions regarding the use of a cooperative agreement on a case-by-case basis. Funding for contractual arrangements for services and products for delivery to NOAA is not available under this announcement. Matching share is not required by this program.

2. Program Authority

49 U.S.C. 44720(b); 33 U.S.C. 883d; 15 U.S.C. 2904; 15 U.S.C. 2931 et seq.; (CFDA No. 11.431)—CLIMATE AND ATMOSPHERIC RESEARCH.

3. Program Objectives

The long-term objective of the Climate and Global Change Program is to provide reliable predictions of climate variability and change with associated regional implications on time scales ranging from seasons to a century or more. NOAA believes that climate variability across these time scales can be modeled with an acceptable probability of success and are the most relevant for fundamental social concerns. Predicting the behavior of the coupled ocean-atmosphere-land surface system will be NOAA's primary contribution to a successful national effort to deal with observed or anticipated changes in the global environment. NOAA has a range of unique facilities and capabilities that can be applied to Climate and Global Change investigations. Proposals that seek to exploit these resources in collaborative efforts between NOAA and extramural investigators are encouraged.

4. Program Priorities

In FY 2002, NOAA will give priority attention to individual proposals in the Main Program Elements listed below. The names, affiliations and phone numbers of relevant Climate and Global Change Program Managers are provided. Funding for some programs may be limited to ongoing projects or may be used to fund projects proposed in FY 2001 that were unable to be funded due to budgetary circumstances. Prospective investigators are urged to check the Climate & Global Change Program web page (http://www.ogp.noaa.gov/) for general program information, and more specifically for current funding status and priorities prior to submitting letters or proposals. Prospective applicants may also communicate with Program Managers for information on priorities within program elements and prospects for funding.

(A) Aerosols

This program element focuses on field measurements and modeling of aerosol properties and distributions, with an emphasis on improving the predictive understanding of the role of aerosols in climate forcing. Due to budgetary limitations, funding may not be available for new grants in FY 2002; prospective investigators are urged to check the Climate and Global Change Program web page for current funding status and priorities prior to submitting letters or proposals. For further information contact: Joel M. Levy, NOAA/Office of Global Programs, 301–427–2089 ext. 111, Internet: joel.levy@noaa.gov.

(B) Atmospheric Chemistry

The Atmospheric Chemistry Project focuses on global monitoring, process-oriented laboratory and field studies, and theoretical modeling to improve the predictive understanding of the atmospheric trace species that influence the earth's chemical and radiative balance and the variation of the concentration of these trace species regionally and seasonally. For an information sheet containing further details and current priorities, please contact: Joel M. Levy, NOAA/Office of Global Programs, 301–427–2089 ext. 111, Internet: joel.levy@noaa.gov; or Fred C. Fehsenfeld, NOAA/Aeronomy Laboratory, Boulder, CO, 303–497–5819, Internet: fcf@al.noaa.gov.

(C) Climate Observation

The goal of this element is to build and sustain the global climate observing system that is needed to satisfy the long-term requirements of the operational forecast centers, international research programs, and major scientific assessments. The element supports in situ ocean and atmospheric components that contribute to global networks for understanding the Earth's climate system, the global water cycle, and the global carbon cycle, and looks for efficiencies to be gained by utilizing common platforms/sites/data infrastructure for several objectives. This program element will not accept applications for new projects in FY 2002. For more information contact: Michael Johnson, NOAA Office of Global Programs, 301–427–2089 ext. 169, Internet: johnson@ogp.noaa.gov.

(D) Climate and Societal Interactions (CSI)

Research on Vulnerability, Opportunities, and Response Options. Variability, change, and surprise results from a wide variety of climatological, social, economic and ecological circumstances and interactions. The purpose of this program is to increase understanding of the impacts of climate variability and change as conditioned by ongoing processes of decision-making and socio-economic transformation. The suite of efforts is intended to further research-based integration between studies of the whole of the climate system, including human components, such as health, and evolving informational and educational needs of decision-makers in climate sensitive sectors around the world. The goal is to provide the basis for more effective application of climate information, including climate forecasts, for purposes of adaptation. The intent of this program is to encourage overlapping research approaches to integrate knowledge for problem solving. The CSI is a chapeau for a suite of activities; prospective applicants must apply to one of the following program elements:

Human Dimensions of Global Change Research (HDGCR): The HDGCR program is aimed at understanding and analyzing the decision process as it relates to information about a dynamic climate system. This year, the program is specifically interested in building on lessons learned from cases of climate forecast use to reveal how information can be best communicated and disseminated to groups otherwise unlikely to benefit from climate information. Research would consider how forecast use is influenced by perceptions and human judgment, as well as public policy, and the most effective means of designing forecast information and its delivery to improve its usability. For more information and an information sheet on program objectives, contact: Caitlin Simpson, NOAA/Office of Global Programs, 301–427–2089 ext. 152, simpson@ogp.noaa.gov; or Claudia Nierenberg, NOAA/Office of Global Programs, 301–427–2089 ext. 151, nierenberg@ogp.noaa.gov.

Health and Climate Variability: A joint interagency announcement is anticipated on Climate and Health. (For more information on this future announcement contact Juli Trtanj, NOAA/Office of Global Programs, 301–427–2089 ext. 134, Internet: trtanj@ogp.noaa.gov.)

Regional Integrated Sciences and Assessments: This Program Element was formerly titled Regional Assessments. NOAA's present program of Regional Integrated Sciences and Assessments possesses three distinct qualities:

(1) Interdisciplinary, integration and synthesis;

(2) Bridging the gap between climatic, environmental and societal interactions on different temporal and spatial scales; and (3) Decision support and services. It requires innovative partnerships among a spectrum of interests (Federal, State, local and private) to enable regional organizational capacity to develop accurate (*i.e.*, identifying risks, uncertainties, and/or indeterminacies), balanced syntheses and services on an ongoing basis. As such, the program relies heavily on consolidating the results and data from ongoing NOAA–OGP disciplinary program elements, already funded in a region, into an integrated framework. This program will not accept applications to initiate new activities, but will accept renewal applications for ongoing efforts or as part of ongoing negotiations. For more information and a detailed information sheet, contact: Roger Pulwarty, NOAA/Office of Global Programs, 301–427–2089 ext. 103, Internet: pulwarty@ogp.noaa.gov.

(E) Climate Change Data and Detection

The scientific goals of this element include efforts to: (1) Provide data and information management support activities needed to assure the availability of critical data sets from a variety of national and international programs of primary interest to NOAA's Climate and Global Change Program, *e.g.*, the CLIVAR (Climate Variability and Predictability) Program, GEWEX (Global Energy & Water Cycle Experiment), GCOS (Global Climate Observing System), National and International Assessments, the WCRP (World Climate Research Program) CLIVAR/PAGES (Past Global Changes) Research Initiative etc.; (2) provide data and information management support related to crosscutting science efforts necessary to assess seasonal, interannual, decadal, and longer climate variations and changes; (3) document and quantitative character of observed climate variations and changes; (4) attribute changes in the observed climate record to specific climate forcings; and (5) establish linkages between the paleoclimatological record and the modern instrumental record, with a focus on interannual variability, extremes, and spatial completeness for the Northern and Southern Hemispheres.

During FY 2002, the Climate Change Data and Detection program element expects to include the following three major interagency activities:

—Enhanced Data Sets: NOAA and the National Aeronautics and Space Administration (NASA) will co-sponsor a project that supports research in the areas of data fusion and enhancement of climate data sets through the use of

space and/or ground based observations. Preference will be given to those proposals that use more than one observing system to develop a blended data set.

—Climate Change Detection and Attribution: NOAA and the Department of Energy (DOE) will co-sponsor a project that addresses all aspects of Climate Change Detection and Attribution.

—Paleoclimatology: NOAA and the National Science Foundation (NSF) will co-sponsor a Paleoclimatology project that will entertain proposals that support the joint WCRP CLIVAR/IGBP PAGES Research Initiative. This initiative is jointly supported by NOAA and the NSF through the Earth System History (ESH) Program at NSF.

Prospective investigators are urged to check the Climate and Global Change web page for current funding status and priorities prior to submitting proposals. For further information contact: Bill Murray, NOAA, 301–427–2089 ext. 133, Internet: murray@ogp.noaa.gov; Chris Miller, NOAA, 301–427–2089 ext. 143, Internet: miller@ogp.noaa.gov; Martha Maiden, NASA, 202/358–1078, Internet: maiden@hq.nasa.gov; Rick Petty, DOE; 301–903–5548, Internet: rick.petty@oer.doe.gov; or David Verardo, NSF, 703–292–8527, Internet: dverardo@nsf.gov.

(F) Climate Dynamics and Experimental Prediction

This program will not accept applications to initiate centers at new institutions, but will accept renewal applications for ongoing efforts or as part of ongoing negotiations. Qualified applications for this program may be submitted throughout the year. For further information contact: Phil Arkin, NOAA/Global Programs, Silver Spring, MD; telephone: 301–427–2089 ext. 116, Internet: arkin@ogp.noaa.gov.

(G) Climate Variability and Predictability (CLIVAR)

The U.S. CLIVAR program seeks to observe, model and understand natural variability on seasonal to decadal time scales and to assess the predictability of such climate variability. The ultimate goal of NOAA's participation in CLIVAR is to develop skillful predictions of climate variability on seasonal-to-interdecadal time scales and regional space scales for optimal use in resource planning. The program is designed to understand global climate variability; to determine the spatial and temporal extent to which this variability is predictable, to develop the observational, theoretical, and computational means to predict variability; and to make enhanced predictions, where feasible. NOAA's research focuses on large-scale recurrent patterns of variability that influence climate on the regional scale, particularly over the US. Among these patterns are the El Niño-Southern Oscillation (ENSO), Pacific Decadal Oscillation (PDO), Tropical Atlantic Variability (TAV), the North Atlantic Oscillation (NAO), and the American monsoon systems. NOAA has structured its CLIVAR program to focus on variability and predictability within three regions: the Atlantic, the Pacific, and Pan America. For an information sheet containing further details and current priorities for research in each of these regions, visit the NOAA CLIVAR website at http://www.ogp.noaa.gov/mpe/clivar/index.htm. For further information on CLIVAR–Atlantic, please contact James Todd, NOAA/Global Programs, 301/427–2089 ext. 139, Internet: james.todd@noaa.gov. For the CLIVAR–Pacific and the Pan American Climate Studies (PACS) efforts, please contact, Michael Patterson, NOAA/Global Programs, 301–427–2089 ext. 102, Internet: michael.patterson@noaa.gov.

(H) Economics and Human Dimensions of Climate Fluctuations

Please see Climate and Societal Interactions (CSI) above.

(I) GEWEX Americas Prediction Project (GAPP)

GAPP is jointly supported by NOAA and NASA. Details about GAPP are available through the GAPP Science Plan and Implementation Strategy available on the OGP Home Page or from the NOAA GAPP Program Manager. Initiatives are solicited which have a geographical focus on the western USA or the Mississippi River Basin, and address the following GAPP priorities:

(1) Land memory processes and their spatial and temporal variability: GAPP seeks to better understand the contributions of orography (including features such as the low level jet), soil moisture, vegetation and snow and other cold land processes to the predictability of the water cycle.

(2) Model transferability studies, enriched data set production and assimilation of remotely-sensed data to support the US contribution to the GEWEX Coordinated Enhanced Observing Period.

(3) Scientific Investigations to examine the application of climate forecasts and GAPP products in water resources management.

It is possible that a joint call with CLIVAR–PACS will be issued to deal with GAPP interests in monsoonal systems. Questions regarding this call should be addressed to Rick Lawford _(lawford@ogp.noaa.gov) or 301–427–2089 Ex. 146 or to Michael Jasinski (mjasinsk@mail.hq.nasa.gov) or 202–358–1847.

(J) Global Carbon Cycle (GCC)

GCC focuses on global observations, process-oriented field studies and modeling to improve our ability to predict the fate of anthropogenic carbon dioxide (CO_2) and future atmospheric CO_2 concentrations. A separate program announcement for GCC will be issued later this year. Investigators interested in the GCC program area are encouraged to respond to this later announcement. For further information, please contact: Lisa Dilling, NOAA/Office of Global Programs, 301–427–2089 ext. 106, Internet: dilling@ogp.noaa.gov or see the web at: http://www.ogp.noaa.gov/mpe/gcc/index/html.

(K) Paleoclimatology

Please see Climate Change Data and Detection above.

5. Eligibility

Eligible applicants are institutions of higher education, other nonprofits, commercial organizations, international organizations, state, local and Indian tribal governments. Applications from non-Federal and Federal applicants will be competed against each other. Proposals selected for funding from non-Federal applicants will be funded through a project grant or cooperative agreement under the terms of this notice. Proposals selected for funding from NOAA scientists shall be effected by an intra-agency fund transfer. Proposals selected for funding from a non-NOAA Federal agency will be funded through an inter-agency transfer.

Please Note: Before non-NOAA Federal applicants may be funded, they must demonstrate that they have legal authority to receive funds from another Federal agency in excess of their appropriation. The only exception to this is ''governmental research facilities'' for awards issued under the authority of 49 U.S.C. 44720. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

6. Letters of Intent (LOI)

The purpose of the LOI process is to provide information to potential applicants on the relevance of their proposed project to the Climate and Global Program and the likelihood of it being funded in advance of preparing a

full proposal. Full proposals will be encouraged only for LOIs deemed relevant, therefore, it is in the best interest of the applicants and their institutions to submit an LOI; however, it is not a requirement. The LOI should provide a concise description of the proposed work and its relevance to the targeted program element. the LOI must include the components listed below. If these components are not included, the LOI risks a delayed response and may not be considered by the program reviewers. (A) Investigators must identify the program element that is being targeted in the LOI. (B) Investigators must specify a tentative project title in the LOI. (C) LOIs must include the name and institution of all principal investigator(s), and specify which individual is the Lead principal investigator. (D) LOIs should be no more than two pages in length and must include a statement of the problem, brief summary of work to be completed, methodology to be used, and approximate cost of the project. Facsimile and electronic mail are acceptable for LOIs (but not for full proposals).

A panel of program managers will review each LOI to determine whether the LOI is responsive to the program goals as advertised in this notice. An LOI response (e-mail or letter) will be sent back to the investigator encouraging or discouraging a full proposal. The final decision to submit a full proposal will be made by the investigator.

7. Evaluation Criteria

Consideration for financial assistance will be given to those proposals that address one of the Program Elements listed and meet the following evaluation criteria:

(A) *Scientific Merit:* Intrinsic scientific value of the subject and the study proposed, including methodology and readiness.

(B) *Relevance:* Importance and relevance to the goals of the selected Program Element(s). (See Program Objectives above).

8. Selection Procedures

Proposals, including those submitted by NOAA employees, will be evaluated in accordance with the above evaluation criteria by (A) independent peer mail review, and/or (B) independent peer panel review, and a rating will be calculated based on these evaluations; both NOAA and non-NOAA experts in the field may be used in this process. The Program Manager will not be a voting member of an independent peer panel. The recommendations and evaluations of the panel members will be considered by the Program Manager in final selections. Proposals are usually awarded in the numerical order they are ranked based on the independent peer mail review or the independent peer panel review. However, the Program Manager will ascertain which proposals do not substantially duplicate other projects that are currently funded by NOAA or are approved for funding by other federal agencies, and fall within remaining funds available. Unsatisfactory performance by a recipient under prior Federal awards may result in an application not being considered for funding. As a result of this review, the Program Manager may decide to select an award out of order. The Program Manager will also determine the total duration of funding and the amount of funding for each selected proposal.

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions (HIS), and Tribal Colleges and Universities (TCU) in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MISs. Institutions eligible to be considered MSIs are listed at the following Internet website: http://www.ed.gov/offices/OCR/99minin.html.

9. Proposal Submission

The following forms are required in each application, with original signatures on each federal form. Failure to comply will result in proposal application being returned.

(A) Full Proposals

(1) Proposals submitted to the NOAA Climate and Global Change Program must include the original and two unbound copies of the proposal. (2) Investigators are required to submit 3 copies of the proposal, however, the normal review process requires 20 copies. For an optimal review, investigators are encouraged to submit sufficient proposal copies, especially color or unusually sized (not 8.5″ × 11″), or otherwise unusual materials submitted as part of the proposal. Only three original copies of the Federally-required forms are needed. (3) Proposals must be limited to 30 pages (numbered), including budget, investigators vitae, and all appendices, and should be limited to funding requests for one to three year duration. Appended information may not be used to circumvent the page length limit. Federally-mandated forms are not included within the page count. (4) Proposals should be sent to the NOAA Office of Global Programs at the above address. (5) Facsimile transmissions and electronic mail submission of full proposals will not be accepted.

(B) Required Elements

All proposals must include the following elements: (1) Signed title page: The title page should be signed by the Principal Investigator (PI) and the institutional representative and should clearly indicate which program element is being addressed. If more than one investigator is listed on the title page, please identify the lead investigator. The PI and institutional representative should be identified by full name, title, organization, telephone number and address. The total amount of Federal funds being requested should be listed for each budget period. (2) Abstract: An abstract must be included and should contain an introduction of the problem, rationale and a brief summary of work to be completed. The abstract should appear on a separate page, headed with the proposal title, institution(s), investigator(s), total proposed cost and budget period. (3) Results from prior research: The results of each prior research project (during the last 3 years) relevant to the proposed effort should be summarized in brief paragraphs. This section should not exceed two pages. (4) Statement of work: The proposed project must be completely described, including identification of the problem, scientific objectives, proposed methodology, relevance to the goal of the Climate and Global Change Program priorities listed above. Benefits of the proposed project to the general public and the scientific community should be discussed. The statement of work, including references but excluding figures and other visual materials, must not exceed 15 pages of text. Investigators wishing to submit group proposals that exceed the 15-page limit should discuss this possibility with the appropriate Program Manager prior to submission. Proposals from 3 or more investigator may include a statement of work containing up to 15 pages of

overall project description plus up to 5 additional pages for individual project descriptions. (5) Budget Justification: A brief description of the expenses listed on the budget and how they address the proposed work. Item justifications must include salaries, equipment, publications, supplies, tuition, travel, etc. (6) Budget: The proposal must include total and annual itemized budgets corresponding with the descriptions provided in the statement of work. Non-Federal Applicants must submit a Standard Form 424 (4–92) ''Application for Federal Assistance,'' including a detailed budget using the Standard Form 424a (4–92), ''Budget Information—Non-Construction Programs.'' Travel must be itemized to include destination, airfare, per diem, lodging and ground travel. The from is included in the standard NOAA application kit. (7) Vitae: Abbreviated curriculum vitae are sought with each proposal. Reference lists should be limited to all publications in the last three years with up to five other relevant papers. (8) Current and pending support: For each investigator, submit a list that includes project title, supporting agency with grant number, investigator months per year, dollar value and duration. Requested values should be listed for pending support.

(C) Other Requirements

Applicants may obtain a standard NOAA application kit from Internet: http://www.ogp.noaa.gov/.

10. Primary Applicant Certification

All primary applicants must submit a completed Form CD–511, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying''. Applicants are also hereby notified of the following:

(A) Nonprocurement Debarment and Suspension

Prospective participants (as defined at 15 CFR Part 26, section 105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension,'' and the related section of the certification form prescribed above applies;

(B) Drug-Free Workplace

Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR Part 26, Subpart F, ''Government-wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

(C) Anti-Lobbying

Persons (as defined at 15 CFR Part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions'', and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000; and

(D) Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, appendix B.

11. Lower Tier Certifications

(A) Recipients must require applicants/bidders for subgrants, contracts, subcontracts, or lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

(B) Recipients and subrecipients are subject to all applicable Federal laws and Federal and Department of Commerce policies, regulations, and procedures applicable to Federal financial assistance awards.

(C) Preaward Activities—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been received, there is no obligation to the applicant on the part of Department of Commerce to cover pre-award costs.

(D) Financial assistance recipients funded by this program are subject to the applicable administrative requirements found in 15 CFR Part 14, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit and Commercial Organizations, or 15 CFR Part 24, ''Uniform Administrative Requirements for Grants and Agreements to State and Local Governments'' as applicable. Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

(E) All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty, or financial integrity.

(F) A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(G) No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either: (i) The delinquent account is paid in full, (ii) A negotiated repayment schedule is established and at least one payment is received, or (iii) Other arrangements satisfactory to the Department of Commerce are made.

(H) Buy American-Made Equipment or Products—Applicants are encouraged that any equipment or products authorized to be purchased with funding provided under this program be American-made to the maximum extent feasible.

(I) The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

(J) If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

(K) In accordance with Federal statutes and regulations, no person on grounds of race, color, age, sex, national origin or disability shall be excluded from participation in, denied benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from the NOAA Climate and Global Change Program. The NOAA Climate and Global Change Program does not have direct TDD (Telephonic Device for the Deaf) capabilities, but can be reached through the State of Maryland supplied TDD

contact number, 800–735–2258, between the hours of 8 a.m.–4:30 p.m.

12. Classification

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, and 0348–0046. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB control number. This notice has been determined to be not significant for purposes of Executive Order 12866.

Dated: May 10, 2001.

Louisa Koch,

Deputy Assistant Administrator.

[FR Doc. 01–12347 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–KP–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050901D]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee and Herring Oversight Committee and Advisory Panel (joint with the Atlantic States Marine Fisheries Commission (ASMFC) Herring Section Panel) in May and June 2001 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held on May 31, 2001, and June 6, 2001. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Wakefield and Peabody, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

Council address: 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. Requests for special accommodations should be addressed to the Council (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Thursday, May 31, 2001, 9:30 a.m.—Research Steering Committee Meeting.

Location: Sheraton Colonial, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300.

The agenda will include an update on the April 2001 workshop held to discuss industry-based surveys/study fleets and NMFS follow-up activities. The committee will discuss and evaluate recommendations in a report prepared by the New England Aquarium on cod-tagging. There will also be a discussion of the committee's role in long-term research programs in New England. The committee will have a follow-up discussion about future research planning over the next 3 to 5 years.

Wednesday, June 6, 2001, 10 a.m.—Joint Herring Oversight Committee, Advisory Panel and ASMFC Meeting.

The committee and advisors will review the annual Stock Assessment and Fishery Evaluation (SAFE) Report for the 2000 fishing year, and recommendations from the Herring Plan Development Team for 2002 fishing year specifications for optimum yield from the fishery, total allowable level of foreign fishing, joint venture processing and total allowable catch for each management area. The committee and advisors will develop recommendations to the Council on specifications for the 2002 fishing year. The meeting will be held jointly with the ASMFC Herring Section who will be discussing proposals for herring spawning area closures tolerance provisions. Following that discussion, time permitting, the committee will finalize its list of questions to the advisors on controlled access/limited entry in the herring fishery.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 11, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12367 Filed 5– 15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050701C]

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) Groundfish Management Team (GMT) will hold a working meeting which is open to the public.

DATES: The GMT working meeting will begin Monday, June 4, 2001 at 1 p.m. and may go into the evening until business for the day is completed. The meeting will reconvene from 8 a.m. to 5 p.m. Tuesday, June 5 through Thursday, June 7.

ADDRESSES: The meetings will be held at NMFS Northwest Regional Office, 7600 Sand Point Way NE., Building 1, Director's Conference Room, Seattle, WA; telephone: (206) 526–6120.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Glock, Groundfish Fishery Management Coordinator, (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the GMT meeting is to prepare reports and technical advice for the upcoming Council meeting and in support of Council decisions. The GMT will discuss, receive reports, and/or prepare reports on the following topics during this working session, (1) inseason adjustments to 2001 trip limits and other management measures; (2)

assignments relating to the groundfish strategic plan; (3) rebuilding plans for canary rockfish, cowcod, bocaccio, and lingcod; (4) draft widow and darkblotched rockfish rebuilding plans; (5) sablefish endorsement qualification; (6) marine recreational fisheries statistics survey update; (7) exempted fishing permit (EFP) applications; (8) mandatory retention of rockfish proposal; (9) work plan for 2001; (10) Amendment 14 (permit stacking): clarifications and corrections for 2002.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: May 10, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12368 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050801B]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Receipt of applications for scientific research permits (1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315) and receipt of application to modify permit (1140).

SUMMARY: NMFS has received new applications for permits and modifications for permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA) from the City of Kent Public Works in Kent, WA; King County Department of Natural Resources in Seattle, WA; King County Department of Transportation in Seattle, WA; the Northwest Fisheries Science Center, NMFS in Seattle, WA; Olympic Resource Management in Aberdeen, WA; Pentec Environmental in Edmonds, WA; the Port of Seattle in Seattle; WA; and the U.S. Army Corps of Engineers in Seattle, WA.

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received no later than 5 p.m. Pacific daylight time on June 15, 2001.

ADDRESSES: Written comments on any of the new applications or modification requests should be sent to Protected Resources Division (PRD), F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737 (phone: 503/230–5400). Comments may also be sent via fax to 503/230–5435. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Christopher Bill, Portland, OR, at phone: 503/230–5424, Fax: 503/230–5435, e-mail:christopher.bill@noaa.gov.

SUPPLEMENTARY INFORMATION: The following ESA-listed species and evolutionary significant units (ESUs) are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Threatened, naturally produced and artificially propagated, Puget Sound (PS); Threatened Lower Columbia River (LCR).

Chum salmon (*O. keta*): Threatened Hood Canal (HC) summer-run; Threatened Columbia River (CR).

Coho salmon (*O. kisutch*): Threatened Oregon Coast (OC).

Steelhead (*O. mykiss*): Threatened LCR.

New Applications Received

The City of Kent Public Works (CKPW) requests a 2-year permit (1308) for annual takes of juvenile, naturally produced and artificially propagated PS chinook salmon associated with scientific research to be conducted in Mullen Slough, a tributary to the lower Green River. The purpose of the study is to determine habitat limiting factors that affect juvenile salmonids. The research will benefit PS chinook salmon by providing a spatial and temporal inventory of fish present in Mullen Slough and by helping guide King County in designing projects that will protect PS chinook salmon and fish resources. The study will also be used to guide future protection and restoration of critical habitat within the City of Kent and its urban growth area. CKPW proposes to observe/harass, capture (using electrofishing), handle, and release juvenile PS chinook salmon.

The King County Department of Natural Resources (KCDNR) requests a 5-year permit (1309) for annual takes of juvenile, naturally produced and artificially propagated PS chinook salmon associated with scientific research to be conducted under three studies in Washington State.

Study 1. The purpose of study 1 is to determine the presence of PS chinook salmon and their use of nearshore habitat in King County's lakes, streams, and marine nearshore habitats. The research will benefit PS chinook salmon by determining the effectiveness of County programs at protecting, conserving, and restoring habitat for PS chinook salmon. KCDNR proposes to capture (using beach and purse seines, fyke nets, and minnow traps), handle, and release juvenile PS chinook salmon. KCDNR also requests indirect mortality associated with the study.

Study 2. The purpose of study 2 is to determine juvenile salmonid utilization of off-channel rearing habitats in the Cedar River system in King County and Puget Sound nearshore habitat. The study will benefit PS chinook salmon by providing information about the effects of habitat restoration efforts and management activities. The study will also provide information about ESA-listed species' distribution. KCDNR proposes to capture (using fyke nets), handle, and release juvenile PS chinook salmon. KCDNR also requests indirect mortality associated with the study.

Study 3. The purpose of study 3 is to collect information about PS chinook salmon survival and outmigration timing and to refine sampling methods for application to future studies of salmonid survival in the Green/Duwamish watershed. The research will benefit PS chinook salmon by providing information to help implement an effective salmon recovery plan. KCDNR proposes to capture (using beach seines and fyke nets), handle, scale sample, and release juvenile PS chinook salmon. KCDNR also requests indirect mortality associated with the study.

The King County Department of Transportation (KCDOT) requests a 5-year permit (1310) for annual takes of adult and juvenile, naturally produced and artificially propagated PS chinook salmon associated with scientific research to be conducted in multiple streams in King County, WA. The purpose of the research is to evaluate the effectiveness of mitigation and enhancement of streams, wetlands, and riparian habitats associated with King County road projects. The research will

benefit PS chinook salmon by providing information to help minimize the effect of future road projects on listed species. KCDOT proposes to observe and harass adult and juvenile PS chinook salmon and capture (using electrofishing, dip nets, block nets, seines, and minnow traps), handle, and release juvenile PS chinook salmon. KCDOT also requests indirect mortality associated with the study.

The Northwest Fisheries Science Center (NWFSC) requests a 5-year permit (1311) for annual takes of juvenile, naturally produced PS chinook salmon associated with scientific research to be conducted in multiple river basins in the Puget Sound and Washington basins. The purpose of this study is to determine the effectiveness of off-channel restoration efforts at increasing juvenile salmonid abundance and to study the formation and evolution of natural off-channel habitats. The research intends to determine the effectiveness of various off-channel habitat restoration techniques, and how to design and construct off-channel habitat types that provide maximum benefits to salmonids. NWFSC proposes to observe/harass, capture (using electrofishing, smolt traps, and minnow traps), handle, and release juvenile PS chinook salmon. NWFSC also requests indirect mortality associated with the study.

Olympic Resource Management (ORM) requests a 2-year permit (1312) for takes of juvenile, naturally produced and artificially propagated PS chinook salmon, juvenile HC summer-run chum salmon, juvenile CR chum salmon, juvenile LCR chinook salmon, and juvenile LCR steelhead associated with scientific research to be conducted in multiple river basins in western Washington State. The purpose of this study is to determine the presence of ESA-listed and other fish species. The research will benefit listed species by allowing landowners to make informed land management decisions to conserve listed salmonids. ORM proposes to capture (using electrofishing), handle, and release juvenile, naturally produced and artificially propagated PS chinook salmon, juvenile HC summer-run chum salmon, juvenile CR chum salmon, juvenile LCR chinook salmon, and juvenile LCR steelhead.

Pentec Environmental (Pentec) requests a 5-year permit (1313) for annual takes of juvenile, naturally produced and artificially propagated PS chinook salmon associated with scientific research to be conducted under three studies in Washington State.

Study 1. The purpose of study 1 is to minimize the potential effects of maintenance dredging on ESA-listed fish habitat in the Snohomish River. Pentec proposes to capture (using beach seines and fyke nets), handle, and release juvenile PS chinook salmon. Pentec also requests indirect mortality associated with the study.

Study 2. The purpose of study 2 is to provide information on salmonid migration patterns and mitigation site usage in Commencement Bay. The mitigation site is planned to compensate for loss of habitat because of sediment remediation work occurring in Commencement Bay. The research will benefit PS chinook salmon by yielding information that will help determine if mitigation is successful. Pentec proposes to capture (using beach seines), handle, and release juvenile PS chinook salmon. Pentec also requests indirect mortality associated with the study.

Study 3. The purpose of study 3 is to determine the distribution, status, and habitat availability for ESA-listed species in five streams that traverse SeaTac, Washington. The research will benefit PS chinook salmon by determining the effectiveness of program activities aimed at conserving PS chinook salmon and their habitat. Pentec proposes to capture (using electrofishing), handle, and release juvenile PS chinook salmon. Pentec also requests indirect mortality associated with the study.

The Port of Seattle (The Port) requests a 2-year permit (1314) for annual takes of adult and juvenile naturally produced and artificially propagated PS chinook salmon associated with scientific research in southeast Elliot Bay. The results of the research will allow The Port to select a disposal site for dredged material that will have the least effect on PS chinook salmon. The research will benefit PS chinook salmon by providing life history data, information about the quality and quantity of habitat, and data on the availability of PS chinook salmon food sources. The Port proposes to observe/harass, capture (using beach seines), handle, and release adult and juvenile PS chinook salmon. The Port also requests indirect mortality associated with the study.

The U.S. Army Corps of Engineers (COE) requests a 5-year permit (1315) for annual takes of juvenile, naturally produced and artificially propagated PS chinook salmon associated with scientific research to be conducted under five studies in Washington State.

Study 1. The purpose of study 1 is to determine the effectiveness of habitat restoration projects in tributaries of Lake Washington. The research will benefit PS chinook salmon by improving restoration projects and knowledge of chinook salmon habitat use in the Lake Washington watershed. COE proposes to capture (using beach seines, minnow traps, and hand nets), handle, mark, and release juvenile PS chinook salmon. COE also requests indirect mortality associated with the study.

Study 2. The purpose of study 2 is to investigate fish passage conditions at the large lock chamber of the Hiram M. Chittenden Locks and Lake Washington Ship Canal to identify effects on salmonids in the Lake Washington Basin. The research will benefit PS chinook salmon by identifying limiting factors contributing to smolt survival, developing smolt survival estimates, and assessing restoration measures to improve smolt survival. COE proposes to capture (using purse seins and screw traps), handle, mark/tag, and release juvenile PS chinook salmon. COE also requests indirect mortality associated with the study.

Study 3. The purpose of study 3 is to document fish presence in various habitats in the Sammamish River. The research will benefit PS chinook salmon by identifying juvenile salmon habitat and restoration needs in the river. COE proposes to observe/harass, capture (using beach seines and electrofishing), handle, mark, and release juvenile PS chinook salmon. COE also requests indirect mortality associated with the study.

Study 4. The purpose of study 4 is to determine juvenile salmon use of shoreline areas in Lake Washington and to direct restoration projects to enhance shoreline habitats. The research will benefit PS chinook salmon by identifying and directing restoration needs in the Lake Washington watershed. COE proposes to capture (using beach seines), handle, and release juvenile PS chinook salmon. COE also requests indirect mortality associated with the study.

Modification Requests Received

The Northwest Fisheries Science Center (NWFSC) requests a modification to permit 1140, which authorizes annual takes of ESA-listed fish species.

Study 1. The take in study 1 is associated with a research study designed to assess the relationship between environmental variables, selected anthropogenic stressors, and bacterial and parasitic pathogens on disease-induced mortality of juvenile salmon in selected coastal estuaries in Oregon and Washington. The results of the study will benefit ESA-listed species by providing a better understanding of

how environmental factors influence disease transmission. For the modification, NWFSC requests annual takes of juvenile OC coho.

Study 2. NWFSC requests annual takes of juvenile naturally produced and artificially propagated PS chinook salmon with an expansion of work locations associated with a new study (study 2) to be conducted in Puget Sound nearshore marine areas. The purpose of study 2 is to evaluate the effects of shoreline development on nearshore fish and submerged aquatic plant assemblages. NWFSC proposes to capture juvenile PS chinook salmon with beach seines, trap nets, fyke nets, and trammel nets and analyze their stomach contents. NWFSC also requests indirect mortality associated with the research. NWFSC requests the modification to be valid for the duration of permit 1140, which expires on December 31, 2002.

Dated: May 10, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–12363 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Revised Short Supply Request under the African Growth and Opportunity Act (AGOA) and United States–Caribbean Basin Trade Partnership Act (CBTPA)

May 14, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a revised request for a determination that certain yarns of 55 percent polyester staple fibers and 45 percent worsted wool cannot be supplied by the domestic industry in commercial quantities in a timely manner.

FOR FURTHER INFORMATION CONTACT: For Further Information Contact: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUMMARY: This Federal Register Notice revises and supercedes the Federal Register Notice published May 10, 2001 (66 FR 23885), regarding a petition to the Chairman of CITA received on May 4, 2001, from Stillwater Sales, Inc./Metcalf Bros. and Company. The petitioner resubmitted the petition on May 11, 2001 because the original petition contained an error in the Harmonized Tariff Schedule of the United States (HTSUS) classification of the yarn. The correct HTSUS classification is 5509.52.00. The petition alleges that yarns of 55 percent polyester staple fibers and 45 percent worsted wool, 1, 2, and 3 ply yarns, in their natural (undyed) state or in their stock dyed state (fiber dyed), with 12 to 20 twists per inch, and in sizes of 1/15 to 1/30, 2/30 to 2/60, and 3/48 to 3/60 worsted count (1/17 to 1/34, 2/34 to 2/68 and 3/54 to 3/68 metric count), classified in subheading 5509.52.00 of the HTSUS, cannot be supplied by the domestic industry in commercial quantities in a timely manner and requests that the President proclaim that apparel articles of woven U.S. formed-fabric of such yarns be eligible for preferential treatment under the AGOA and the CBTPA. CITA hereby solicits public comments on this request, in particular with regard to whether these yarns can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by May 31, 2001 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, Washington, DC 20230. The new comment period reflects the date of the corrected submission.

SUPPLEMENTARY INFORMATION:

Authority: Section 112(b)(5)(B) of the AGOA; Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act, as added by Section 211(a) of the CBTPA; Sections 1 and 6 of Executive Order No. 13191 of January 17, 2001.

Background

The AGOA and the CBTPA provide for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The AGOA and the CBTPA also provide for quota– and duty–free treatment for apparel articles that are both cut (or knit–to–shape) and sewn or otherwise assembled in one or more AGOA or CBTPA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner and the President has proclaimed such treatment. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA and the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. 66 FR 13502.

On May 4, 2001 the Chairman of CITA received a petition from Stillwater Sales, Inc./Metcalf Bros. and Company. The petitioner resubmitted the petition on May 11, 2001 because the original petition contained an error in the HTSUS classification of the yarn. The correct HTSUS classification is 5509.52.00. The petition alleges that yarns of 55 percent polyester staple fibers and 45 percent worsted wool, 1, 2, and 3 ply yarns, in their natural (undyed) state or in their stock dyed state (fiber dyed), with 12 to 20 twists per inch, and in sizes of 1/15 to 1/30, 2/30 to 2/60, and 3/48 to 3/60 worsted count (1/17 to 1/34, 2/34 to 2/68 and 3/54 to 3/68 metric count), classified in subheading 5509.52.00 of the HTSUS, cannot be supplied by the domestic industry in commercial quantities in a timely manner, and requesting that the President proclaim quota- and duty-free treatment under the AGOA and the CBTPA for apparel articles that are cut and sewn in one or more AGOA or CBTPA beneficiary countries from woven U.S.-formed fabric of such yarns.

CITA is soliciting public comments regarding this request, particularly with respect to whether these yarns can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other yarns that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for these yarns for purposes of the intended use. Comments must be received no later than May 31, 2001. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230. The new comment period reflects the date of the corrected submission.

If a comment alleges that these yarns can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the yarn stating that it produces the yarn that is in the subject of the request, including the quantities

that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–12441 Filed 5–14–01; 1:59 pm]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0025, Practice by Former Members and Employees of the Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to practice before the Commission by former members and employees of the Commission.

DATES: Comments must be submitted on or before June 15, 2001.

ADDRESSES: Comments may be mailed to Linda J. Mauldin, Office of the General Counsel, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Linda J. Mauldin at (202) 418–5120; FAX: (202) 418–5524; email: *lmauldin@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirements, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

- 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;
- 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;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize 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.

Practice by former members and employees of the Commission, OMB control number 3038–0025—Extension

Commission Rule 140.735–6 governs the practice before the Commission of former members and employees of the Commission and is intended to ensure that the Commission is aware of any existing conflict of interest. The rule generally requires former members and employees who are employed or retained to represent any person before the Commission within two years of the termination of their CFTC employment to file a brief written statement with the Commission's Office of General Counsel. The proposed rule was promulgated pursuant to the Commission's rulemaking authority contained in Section 8a(5) of the Commodity Exchange Act, 7 U.S.C. 12a(5) (1994).

The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

17 CFR section	Annual number of respondents	Frequency of response	Total annual responses	Hours per response	Total hours
17 CFR 140.735–6	3	1.5	4.5	.10	0.45

There are no capital costs or operating and maintenance costs associated with this collection.

This estimate is based on the number of responses received over the last three years.

Dated: May 10, 2001.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–12242 Filed 5–15–01; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Chief of Naval Operations (CNO) Executive Panel

AGENCY: Department of the Navy, DOD.

ACTION: Notice of Closed Meeting.

SUMMARY: The Chief of Naval Operations Executive Panel will meet to conduct the final briefing of the Expeditionary Sensors Task Force to the Chief of Naval Operations. This meeting will consist of discussions relating to how best to bring a robust sensor system with supporting networks into being. This meeting will be closed to the public.

DATES: The meeting will be held on Thursday, May 24th, 2001, from 1:15 p.m. to 1:45 p.m.

ADDRESSES: The meeting will be held at the office of the Chief of Naval Operations, 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Commander Christopher Agan, CNO Executive Panel, 4825 Mark Center Drive, Alexandria, VA 22311, telephone (703) 681–6205.

SUPPLEMENTARY INFORMATION: This meeting was originally scheduled for January 19, 2001, (65 FR 82328) and was postponed to May 24, 2001. Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2, these matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

Dated: May 3, 2001.

J.L. Roth,

Lieutenant Commander, U.S. Navy, Judge Advocate General's Corps, Federal Register Liaison Officer.

[FR Doc. 01–12341 Filed 5–15–01; 8:45 am]

BILLING CODE 3810–FF–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 July 16, 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: May 10, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Chief Financial Officer

Type of Review: New.

Title: General Education Provisions Act (GEPA) Section 427 Guidance for All Grant Applications.

Frequency: One time, only once per application for new awards.

Affected Public: Individuals or household; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 6,600.

Burden Hours: 9,900.

Abstract: In compliance with Section 427 of the General Education Provisions Act, as amended by Pub. L. 103–282, all applicants for grant awards made by the Department of Education are required to describe in their applications the steps they propose to take to ensure equitable access to, and equitable participation in, the proposed grant activities conducted with federal funds. The Department has developed a single document that provides common guidance for all competitive and formula grant applicants on how they can meet this requirement. The language in this common guidance document is nearly identical to language that the Department has previously used in separate guidance documents applicable to discretionary grant applicants and to States that have previously applied for formula grants on the basis of consoldiated plans available under Title XIV of the Elementary and Secondary Education Act.

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 Jackie 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. 01–12259 Filed 5–15–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.245]

Office of Vocational and Adult Education; Tribally Controlled Postsecondary Vocational and Technical Institutions Program

ACTION: Modification of notice published on March 28, 2001 inviting applications for new awards for fiscal year (FY) 2001.

Notice to Applicants: On March 28, 2001, the Secretary published in the **Federal Register** (66 FR 17036) a notice inviting applications for new awards for FY 2001 for the Tribally Controlled Postsecondary Vocational and Technical Institutions Program. This notice modifies the notice published on March 28, 2001 by reducing the project period under this competition from three years to one year and by extending the deadline for transmittal of applications under this competition to June 21, 2001. Under the program statute, the Secretary has the discretion to determine the length of project periods to be funded. As a result of concerns raised about the Department's implementation of the changes to the program resulting from the 1998 statutory reauthorization, the Secretary has determined that it is important to engage in a more extensive

consultative process with Indian tribes and other interested parties about the future implementation of this program, as soon as possible, without unduly delaying this year's grant competition. Accordingly, the Secretary has determined that it is preferable to award grants for one-year project periods in FY 2001, rather than to award grants for three-year project periods. The extension of the application deadline is intended to provide eligible applicants, who have begun preparation of three-year project applications based on the March 28, 2001 notice, with additional time to revise their applications in accordance with this notice of modification.

New Deadline for Transmittal of Applications: June 21, 2001.

Project Period: 1 year.

FOR FURTHER INFORMATION CONTACT: Paul Geib, Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4528, Mary E. Switzer Building), Washington, DC 20202–7242. Telephone (202) 205–9962. Internet address: paul.geib@ed.gov.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–888–877–8339. Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed at the beginning of this paragraph.

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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: 20 U.S.C. 2327(a)–(f) and (h).

Dated: May 11, 2001.

Robert Muller,

Deputy Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 01–12328 Filed 5–15–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.331A]

Office of Vocational and Adult Education; Grants to States for Workplace and Community Transition Training for Incarcerated Youth Offenders Program

ACTION: Notice establishing a closing date for the receipt of applications for awards for fiscal year (FY) 2001.

Note to Applicants: The Workplace and Community Transition Training for Incarcerated Youth Offenders Program is a formula grant program that provides assistance to State correctional education agencies to—

(a) Assist and encourage incarcerated youths to acquire functional literacy or life and job skills through the pursuit of a postsecondary education certificate or an associate of arts or bachelors' degree while in prison; and

(b) Provide employment counseling and other related services that start during incarceration and continue through pre-release and while on parole or during release.

In order to receive assistance under this program for Fiscal Year 2001, a State correctional educational agency that has been appointed by the Governor must submit an application to the Department on or before June 15, 2001.

Eligible Applicants: A State correctional education agency appointed by the Governor of any of the 50 States, the Commonwealth of Puerto Rico, District of Columbia, Guam, America Samoa, the Virgin Islands, and the Northern Mariana Islands.

Applications Available: May 16, 2001. Application materials have been sent to the State correctional education agency appointed by the Governor. Eligible State correctional education agencies may request additional application material if needed.

Deadline for Transmittal of Applications: June 15, 2001.

Available Funds: $17,000,000.

Estimated Number of Awards: 56.

Note: The Department is not bound by any estimates in this notice.

Applicable Statute and Regulations: (a) The relevant provisions of Public Law 105–244, Title VIII, section 821, 20 U.S.C. 1151.

(b) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 76 (State-Administered Programs).

(2) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(3) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(4) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR part 86 (Drug and Alcohol Abuse Prevention).

FOR FURTHER INFORMATION CONTACT: John Linton or Carlette Huntley, Office of Correctional Education, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4529, Mary E. Switzer Building), Washington, DC 20202–7242. Telephone (202) 260–7007 or (202) 205–5621, respectively. Internet addresses: John.Linton@ed.gov Carlette.Huntley@ed.gov.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–888–877–8339. Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact persons listed at the beginning of this paragraph. Individuals with disabilities may obtain a copy of the application package in an alternative format, also, by contacting those persons. Please note, however, that the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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: 20 U.S.C. 1151.

Dated: May 11, 2001.

Robert D. Muller,

Deputy Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 01–12403 Filed 5–15–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Nonproliferation and National Security University Research Initiative (NNURI)

AGENCY: Idaho Operations Office, Department of Energy.

ACTION: Notice of availability of solicitation.

SUMMARY: The U.S. Department of Energy (DOE) Office of Research and Engineering (NN–20), of the Office of Defense Nuclear Nonproliferation (NN), National Nuclear Security Administration (NNSA), in keeping with its mission to strengthen the Nation's capabilities in the areas of nonproliferation of weapons of mass destruction and national security through the support of science, engineering and mathematics, announces its interest in receiving grant applications from academic researchers, preferably in collaborative partnerships with U.S. Department of Energy Laboratories. The purpose of this program is to expand our national capability to detect illicit nuclear proliferation activities and to attract new talent to national security research and development organizations. The DOE is seeking applications from domestic private and public institutions of higher learning to support innovative research in areas that will contribute to the Department of Energy's Nonproliferation and National Security missions.

DATES: The deadline for receipt of applications is 5 p.m. MDT June 18, 2001. The issuance date of Solicitation No. DE–PS07–01ID14060 will be approximately May 9, 2001.

ADDRESSES: Applications should be submitted through DOE's Industry Interactive Procurement System (IIPS) at *http://e-center.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Marshall Garr, Contract Specialist, at *garrmc@id.doe.gov* or telephone (208) 526–1536.

SUPPLEMENTARY INFORMATION: The purpose of this program is to expand our national capability to detect illicit nuclear proliferation activities and to attract new talent to national security research and development organizations. The DOE is seeking applications from domestic private and public institutions of higher learning to support innovative research in areas that will contribute to the Department of Energy's Nonproliferation and National Security missions. Approximately $600,000 in federal funds is expected to be available to fund the first year of selected research efforts. DOE anticipates making 3 grant awards, each with a budget of $200,000 per year and a project performance period of three years. Additional grants may be awarded at a later date if more funding becomes available. There is a limit of one award per institution. Award of a grant under this solicitation does not commit the Government to fund any follow-on research. Successful applicants will be required to submit annual and final reports to DOE. Project performance periods are divided into budget periods. Each budget period is 12 months, beginning on the day of award. Continuation of the award into each new budget period will be based on submission of timely and informative reports; adequate progress based on reports and site visits from DOE representatives; and adequate planning for the new budget period. Planning should be based on the budget period not the fiscal or calendar year. All U.S. institutions of higher learning, whether private or public, may submit applications in response to this solicitation. DOE anticipates that federal funds provided through this solicitation will be used to support research and development (R&D) by faculty and students at institutions of higher learning. Collaboration or a close working relationship with a DOE National Laboratory is strongly encouraged; however, no award dollars can be used to fund DOE Laboratory activities.

The solicitation will be available in full text via the Internet on DOE's Industry Interactive Procurement System (IIPS) at *http://e-center.doe.gov.* Technical and non-technical questions should be submitted in writing to Marshall Garr by e-mail *garrmc@id.doe.gov*, or facsimile at 208–526–5548 no later than May 22, 2001.

The statutory authority for this program is the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106–65).

Issued in Idaho Falls on May 9, 2001.

R. Jeffrey Hoyles,

Director, Procurement Services Division.

[FR Doc. 01–12331 Filed 5–15–01; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Golden Field Office; Event Organizer for U.S. Collegiate Solar Car Race Competitions

AGENCY: U.S. Department of Energy.

ACTION: Issuance of Solicitation for Financial Assistance Applications DE–PS36–01GO90011.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.8, is announcing its intention to solicit Applications for the planning, management and conduct of a biennial collegiate competition to design, build, and race solar-powered cars in cross-country events in the United States during calendar years 2003 and 2005. The Financial Assistance award issued under this Solicitation will be a cooperative agreement.

DATES: The solicitation will be issued May 2001.

ADDRESSES: To obtain a copy of the solicitation once it is issued, interested parties must access the DOE Golden Field Office Home Page at http://www.golden.doe.gov/businessopportunities.html, click on ''Solicitations.'' And then locate the solicitation number identified above. DOE does not intend to issue written copies of the solicitation.

FOR FURTHER INFORMATION CONTACT: Ruth E. Adams, Contracting Officer, DOE Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393 or via facsimile to Ruth E. Adams at (303) 275–4788, or electronically to ruth_adams@nrel.gov. Responses to questions will be made by Amendment and posted on the DOE Golden Field Office Home Page.

SUPPLEMENTARY INFORMATION: Under this solicitation, DOE is soliciting Applications for the planning, management and conduct of the 2003 and 2005 U.S. cross-country solar car race competitions. The events should focus on collegiate competitions for the advancement of solar technologies—specifically photovoltaics; educational and engineering excellence; environmental consciousness; and public awareness of the potential of emerging solar technologies. Through sponsorship of the solar car race competitions, DOE intends to promote

and encourage educational excellence and engineering creativity, and to champion the creative integration of technical and scientific expertise across a broad range of energy and transportation related disciplines in the application of solar energy resources.

Organizations applying under this solicitation are required to work in collaboration with National Laboratories and academic institutions in the development and execution of this program. No eligibility restrictions are imposed upon this solicitation; however, proposals will be screened for potential conflicts of interests where it may appear that an award Recipient could potentially gain substantial benefits or have conflicting vested interests in this program. Applicants should be able to demonstrate past experience in event planning, management, and conduct of competitions (preferably with colleges and universities) and in soliciting co-sponsorship and funding. Any award under this solicitation will be a Cooperative Agreement with a potential term of four years. Subject to funding availability, the total DOE funding anticipated under this solicitation will be approximately $1,000,000 over a four-year period ($250,000 per year or $500,000 per event). Support for the second event will be subject to performance of the 2003 event and funding availability. DOE anticipates selecting one application for negotiation toward an award. In addition to funding the planning, management, and conduct of the events, DOE intends to lead the public outreach efforts for these competitions.

This program is not considered research, development, or demonstration; therefore, no cost share is required. However, proposed cost share levels based upon anticipated sponsorship and support for the competitions will be a major consideration for an award under this solicitation. While it is believed that program success can be achieved without cost share, DOE recognizes that an increased level of sponsorship above that provided by DOE would enhance the impact of these solar competitions.

Applications under this Solicitation must provide a comprehensive plan for the management and conduct of the 2003 and 2005 biennial collegiate solar car race competitions including a plan for obtaining co-sponsorship and support for each event. A critical component of the Applicant's proposal will be their demonstrated ability to organize these events and demonstrated success in securing co-sponsorship and support for similar collegiate competitions.

Applications submitted by Federally Funded Research and Development Centers (FFRDC's), as defined by Federal Acquisition Regulation (FAR) 35.017, will not be considered for award. All questions concerning this Solicitation must be submitted in writing to: Ruth E. Adams, Contracting Officer, DOE Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393 or transmitted via facsimile to Ruth E. Adams, Contracting Officer, at (303) 275–4788 or electronically to ruth_adams@nrel.gov.

Issued in Golden, Colorado, on May 4, 2001.

Jerry L. Zimmer,

Director, Office of Acquisition and Financial Assistance.

[FR Doc. 01–12330 Filed 5–15–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

McNary-John Day Transmission Line Project

AGENCY: Bonneville Power Administration (Bonneville), Department of Energy (DOE).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) and notice of floodplain and wetlands involvement.

SUMMARY: Bonneville intends to prepare an EIS on the construction, operation, and maintenance of a 75-mile-long 500-kilovolt transmission line in Benton and Klickitat Counties, Washington, and Umatilla and Sherman Counties, Oregon. The new line would start at Bonneville's McNary Substation in Oregon and would cross the Columbia River just north of the substation into Washington. The line would then proceed west for about 70 miles along the Columbia River. At the John Day Dam, the line would again cross the Columbia River into Oregon and terminate at Bonneville's John Day Substation. The new line would parallel existing transmission lines for the entire length. Bonneville has available right-of-way next to those lines; the new line would be within the available right-of-way wherever feasible. The proposed McNary-John Day line is needed to help move power from east to west. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements, Bonneville will prepare a floodplain and wetlands assessment as necessary to avoid or minimize potential harm to or within any affected floodplains and wetlands. The assessment will be included in the EIS being prepared for the proposed project in accordance with the National Environmental Policy Act.

DATES: Written comments are due to the address below no later than June 18, 2001. Comments may also be made at the EIS scoping meetings to be held on May 23 and 24, 2001, from 4 p.m. to 8 p.m. at the addresses below.

ADDRESSES: Send letters with comments and suggestions on the proposed scope of the Draft EIS, and requests to be placed on the project mailing list, to Bonneville Power Administration, Communications—KC–7, PO Box 12999, Portland, Oregon 97212. You may also call Bonneville's toll-free comment line at 1–800–622–4519, and leave a message (please include the name of this project); or send an e-mail to: *comment@bpa.gov.*

On Wednesday, May 23, 2001, a scoping meeting will be held from 4 p.m. to 8 p.m. at Paterson School, 51409 West Prior Road, Paterson, Washington. On Thursday, May 24, 2001, a scoping meeting will be held from 4 p.m. to 8 p.m. at Roosevelt School, 615 Chinook Avenue, Roosevelt, Washington. At these informal meetings, we will provide information about the project, including maps, and have several members of the project team available to answer questions and accept oral and written comments.

FOR FURTHER INFORMATION CONTACT: Lou Driessen, Project Manager, Bonneville Power Administration—TNP–3, PO Box 3621, Portland, Oregon, 97208–3621; toll-free telephone 1–800–282–3713; direct telephone 503–230–5525; or e-mail *lcdriessen@bpa.gov.* You may also contact Stacy Mason, Environmental Coordinator, Bonneville Power Administration—KEC–4, PO Box 3621, Portland, Oregon 97208–3621; toll-free telephone 1–800–282–3713; direct telephone 503–230–5455; or e-mail *slmason@bpa.gov.* Additional information can be found at Bonneville's web site: *www.efw.bpa.gov.*

SUPPLEMENTARY INFORMATION: Presently, the existing transmission lines between McNary and John Day substations are operating at capacity. These lines help move power from the east side of the Cascades to the west side, where there is a high need for electricity (cities along the I–5 corridor). Because the Northwest is short on power, there are many new proposals for facilities to generate new power. Some of these generation facilities are in the vicinity of the proposed transmission line. The new

line would help insure that existing and newly generated power could move through the system.

Alternatives Proposed for Consideration. At this point the alternatives we are considering for evaluation in the EIS include alternative tower locations near the existing lines, and the alternative of not building the line (an alternative we always consider). Other alternatives may be identified through the scoping process.

Public Participation and Identification of Environmental Issues. The potential environmental issues identified for most transmission line projects include land use, cultural resources, visual, sensitive plants and animals, erosion/soils, wetlands, floodplains, and fish and water resources. Bonneville has established a 30-day scoping period during which affected landowners, concerned citizens, special interest groups, local governments, and any other interested parties are invited to comment on the scope of the proposed EIS. Scoping will help Bonneville ensure that a full range of issues related to this proposal is addressed in the EIS, and also will identify significant or potentially significant impacts that may result from the proposed project. When completed, the Draft EIS will be circulated for review and comment, and Bonneville will hold public meetings to hear comments. Bonneville will consider and respond in the Final EIS to comments received on the Draft EIS. The Final EIS is expected to be published in mid to late 2002. Bonneville's decision will be documented in a Record of Decision.

Issued in Portland, Oregon, on May 8, 2001.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. 01–12332 Filed 5–15–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–412–000]

Algonquin Gas Transmission Company; Notice of Tariff Filing

May 10, 2001.

Take notice that on May 7, 2001, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective June 7, 2001.

Algonquin states that the purpose of this filing is to make the benefits and opportunities of e-commerce available to Algonquin's existing and potential customers and to advance the Commission objectives as expressed in Order Nos. 637, et seq. of providing equality between the pipeline services and capacity release transactions.

Algonquin states that the proposed tariff modifications permit customers to request service agreements electronically and to execute such contracts on line via the LINKr System, which will facilitate nomination and increase the efficiency and convenience of the Algoquin contracting process for all customers.

Algonquin states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, 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. 01–12289 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–240–001]

ANR Pipeline Company; Notice of Compliance Filing

May 10, 2001.

Take notice that on April 17, 2001, ANR Pipeline Company (ANR) tendered for filing its responses to the comments of the Wisconsin Distributor Group (WDG), regarding ANR's quarterly filing for recovery of its Dakota Gasification costs, in the above-captioned docket.

ANR states that the filing is being made in compliance with the Commission's Letter Order issued on March 28, 2001,[1] in the above referenced proceeding, which directed ANR to respond to WDG's questions and concerns within 20 days of the date of the order.

ANR states that copies of the filing have been served upon each person designated on the official service list complied by the Secretary in this proceeding.

Any person desiring to protest or file comments to said filing should file a protest or comments with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests or comments must be filed on or before May 17, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). 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. 01–12295 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–413–000]

East Tennessee Natural Gas Company; Notice of Tariff Filing

May 10, 2001.

Take notice that on May 7, 2001, East Tennessee Natural Gas Company (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed in

[1] 94 FERC ¶ 61,345 (2001).

Appendix A to the filing, to be effective June 7, 2001.

East Tennessee states that the purpose of this filing is to make the benefits and opportunities of e-commerce available to East Tennessee's existing and potential customers and to advance the Commission objectives as expressed in Order Nos. 637, et seq. of providing equality between the pipeline services and capacity release transactions.

East Tennessee states that the proposed tariff modifications permit customers to request service agreements electronically and to execute such contracts on line via the LINKr System, which will facilitate nominations and increase the efficiency and convenience of the East Tennessee contracting process for all customers.

East Tennessee states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). 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. 01–12288 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–411–000]

Kern River Gas Transmission Company; Notice of Tariff Filing

May 10, 2001.

Take notice that on May 7, 2001, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective June 7, 2001:

Third Revised Sheet No. 71
Sheet Nos. 187–204 (Reserved)
Original Sheet No. 205
Sheet Nos. 206–299 (Reserved)
Third Revised Sheet No. 501
Third Revised Sheet No. 601
Third Revised Sheet No. 701
Third Revised Sheet No. 901

Kern River states that the purpose of this filing is to comply with the Order Issuing Certificate issued April 6, 2001 in Docket No. CP01–106–000 by submitting a proposed tariff provision allowing Kern River to reserve capacity for future expansion projects.

Kern River states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in 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. 01–12290 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–76–000]

The State of Michigan and the Michigan Public Service Commission v. Wolverine Power Supply Cooperative, Inc.; Notice of Complaint

May 10, 2001.

Take notice that on May 9, 2001, the State of Michigan and the Michigan Public Service Commission (collectively, Michigan) tendered for filing a Complaint under Section 206 of the Federal Power Act in which Michigan petitions the Commission to institute an investigation to determine the just and reasonable level of wholesale rates for Wolverine Power Supply Cooperative, Inc. (Wolverine). Michigan has requested a refund effective date of July 8, 2001.

Any person desiring to be heard or to protest this 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 must be filed on or before May 29, 2001. 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 this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before May 29, 2001. 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. 01–12298 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–22–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff and Filing of Non-Conforming Service Agreement

May 10, 2001.

Take notice that on May 7, 2001, Northwest Pipeline Corporation (Northwest) tendered for filing and acceptance a Rate Schedule TF–2 non-conforming service agreement. Northwest also tendered the following tariff sheet as part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective June 7, 2001:

Tenth Revised Sheet No. 364

Northwest states that the service agreement contains a scheduling priority provision imposing subordinate primary corridor rights. Northwest states that the tariff sheet is submitted to add such agreement to the list of non-conforming service agreements contained in Northwest's tariff and to update that list to reflect other minor changes.

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. 01–12297 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–358–000]

NUI Corporation/NUI Utilities, Inc. C&T Enterprises Inc./Valley Energy, Inc.; Notice of Application

May 10, 2001.

Take notice that on May 4, 2001, NUI Corporation/NUI Utilities, Inc., together referred to as NUI, One Elizabethtown Plaza, P.O. Box 3175, Union, New Jersey 07083–1975, and C&T Enterprises, Inc./Valley Energy, Inc., together referred to as C&T, Suite 310, 208 North Third Street, P.O. Box 12090, Harrisburg, Pennsylvania 17108–2090, in Docket No. CP01–358–000 filed an application pursuant to Section 7(f) of the Natural Gas Act (NGA) for an order granting to C&T the same Section 7(f) service area determination held by NUI in connection with the operation of two local gas distribution systems, the Waverly Division in the State of New York, and the Valley Cities Division located in the Commonwealth of Pennsylvania, in anticipation of the proposed sale by NUI and the purchase by C&T of the assets of the two distribution systems, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

NUI and C&T further request that the Commission (i) to the extent necessary, authorize NUI to terminate, relinquish, and/or transfer its NGA Section 7(f) service area determination upon its sale of the two systems to C&T; (ii) waive the regulatory requirements ordinarily applicable to a natural gas company under the NGA and the Natural Gas Policy Act of 1978 (NGPA), including but not limited to reporting and accounting requirements and charges, in consideration of the New York and Pennsylvania state regulatory requirements to which C&T will be subject upon its acquisition of the two local distribution systems; (iii) declare that C&T qualifies as a local distribution company (LDC) in the service area to be determined for purposes of Section 311 of the NGPA; and (iv) grant such other relief as it may be deem appropriate.

Any questions regarding the application should be directed to Mary Patricia Keefe, at (908) 351–7373 or Kenneth Zielois at (717) 234–1250.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before May 31, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene 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 NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the

Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Also, 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.ded.us/efi/doorbell.htm.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–12284 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–259–000]

Ohio Valley Hub, LLC; Notice of Application

May 10, 2001.

Take notice that on May 1, 2001, Ohio Valley Hub, LLC (OVH), 19 Northwest Fourth Street, Suite 600, Evansville, Indiana 47708, filed in Docket No. CP01–259–000 an application pursuant to Section 1(c) of the Natural Gas Act (NGA) and the Commission's Rules and Regulations, for a declaration stating that OVH qualifies for Hinshaw status, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Specifically, OVH is asking the Commission to declare it as qualifying for Hinshaw status under Section 1(c) of the NGA and that neither OVH's construction, ownership and operation of the facilities located in Knox County, Indiana, nor the initial services related thereof will subject OVH or any portion of its facilities to the jurisdiction of the Commission under the NGA.

Any questions regarding the application should be directed to Mark W. Head, General Manager, Ohio Valley Hub, LLC, 19 Northwest Fourth Street, Suite 600, Evansville, Indiana 47708, call (812) 465–5231.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before May 31, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene 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 NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the internet is 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.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–12285 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–307–001]

Overthrust Pipeline Company; Notice of Compliance Filing

May 10, 2001.

Take notice that on May 4, 2001, Overthrust Pipeline Company (Overthrust) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following tariff sheets, to be effective May 1, 2001:

Substitute Fifth Revised Sheet No. 78D
Substitute Second Revised Sheet No. 78E

Overthrust states that this filing was tendered in compliance with the Commission's Order issued April 26, 2001, in Docket No. RP01–307–000, which directed that three corrections be made to Overthrust's Order No. 587–M compliance filing in Docket No. RM96–1–015 filed March 30, 2001.

Overthrust states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://

www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

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. 01–12293 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–329–001]

Questar Pipeline Company; Notice of Compliance Filing

May 10, 2001.

Take notice that on May 4, 2001, Questar Pipeline Company (Questar) tendered for filing to as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Third Revised Sheet No. 99E, to be effective May 1, 2001.

Questar states that this filing was tendered in compliance with the Commission's Order issued April 26, 2001, in Docket No. RP01–329–000, which directed that one correction be made to Questar's Order No. 587–M compliance filing in Docket No. RM96–1–015 filed March 30, 2001.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). 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. 01–12292 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–183–000]

Southern Natural Gas Company; Notice of Application

May 10, 2001.

Take notice that on April 25, 2001, Southern Natural Gas Company (Southern) P.O. Box 2563, Birmingham, Alabama 35202–2563, filed an abbreviated application pursuant to Section 7(b) of the Natural Gas Act, as amended, and Section 157.7 and 157.14 of the Commission's regulations for approval of Southern's abandonment of capacity by sale to Cypress Natural Gas Company, L.L.C. (Cypress), all as more fully set forth in the application that is on file with the Commission and open for public inspection.

Southern proposes to abandon by sale to Cypress an undivided interest in two parallel 30-inch pipelines owned and operated by Southern equal to 310,000 Mcf per day of capacity from the tailgate of the liquefied natural gas facility of Southern LNG, Inc., on Elba Island in Chatham County, Georgia (LNG Facility) to an interconnection to be constructed with the pipeline facilities of Cypress at Cypress' meter station at Port Wentworth in Chatham County, Georgia (Pipelines). Southern states that this sale of capacity in the Pipeline is being proposed in conjunction with an overall project by Cypress to construct a pipeline system from the LNG Facility to Clay County, Florida, pursuant to an application Cypress filed concurrently with the Commission. Southern states that the capacity of the pipelines of approximately 1250 Mmcf/d greatly exceeds the maximum daily vaporization quantity of the LNG Facility. Southern further states that this demonstrates that even after the sale of 310 Mmcf/d of capacity to Cypress, Southern will still retain more than enough capacity in the Pipelines for Southern to take the entire deliverability from the LNG Facility that its downstream facilities are capable of accepting. Southern states it will continue to operate the Pipelines.

Any questions regarding the application should be directed to Patrick B. Pope, General Counsel, Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202–2563 at 205–325–7133.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings, for this project should, on or before May 31, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene 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 NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–12287 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Docket No. RP01–335–001

TransColorado Gas Transmission Company; Notice of Compliance Filing

May 10, 2001.

Take notice that on May 4, 2001, TransColorado Gas Transmission Company (TransColorado) tendered for filing, of its FERC Gas Tariff Original Volume No. 1, the following tariff sheets, to be effective May 1, 2001:

Substitute Eight Revised Sheet No. 203
Substitute Fifth Revised Sheet No. 203.01

TransColorado states that this filing was tendered in compliance with the Commission's Order issued April 26, 2001, in Docket No. RP01–335–000, which directed TransColorado to make two corrections to its Order No. 587–M compliance filing in Docket No. RM96–1–015 filed March 30, 2001.

TransColorado states that a copy of this filing has been served upon TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 10426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

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. 01–12291 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–258–001]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

May 10, 2001.

Take notice that on April 30, 2001, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing additional documentation and support for the proposed Transportation Electric Power Cost Adjustment as directed by a Commission letter order issued March 30, 2001, in this proceeding.

Transco states that copies of the filing are being served to all parties in the referenced proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 21, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). 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. 01–12294 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–195–000]

Williston Basin Interstate Pipeline Company; Notice of Application

May 10, 2001.

Take notice that on April 30, 2001, Williston Basin Interstate Pipeline Company (Williston Basin), P.O. Box 5601, Bismarck, North Dakota 58506–5601, filed an Abbreviated Application pursuant to Section 7(b) of the Natural Gas Act (NGA), as amended, and Sections 157.7 and 157.18 of the Federal Energy Regulatory Commission's (the Commission) Regulations for an order authorizing the abandonment of gathering facilities and related land rights and services located in Phillips and Valley Counties, Montana by sale to Bitter Creek Pipelines, LLC (Bitter Creek). Facilities include: approximately 363.689 miles of 2 to 12 inch diameter gas gathering pipeline; three compressor stations; and 278 field meter stations in Bowdoin Field. Land rights and services include: pipeline gathering easements; Bureau of Land Management, highway, railroad and other permits; and various gathering service agreements. Bitter Creek has informed Williston Basin that it will operate the gathering facilities to be acquired on an open access basis. Williston Basin also seeks a determination that following abandonment of the subject facilities, and upon their transfer to Bitter Creek, the subject facilities will be nonjurisdictional gathering facilities and not subject to regulation by the Commission as provided in NGA Section 1(b), all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may be viewed at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Questions regarding the details of this proposal should be directed to Keith A. Tiggelaar, Manager, Regulatory Affairs, Williston Basin Interstate Pipeline Company, Post Office Box 5601, Bismarck, North Dakota, 58506–5601, call 701–530–1560.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before May 31, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the

proceedings can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Comments, interventions and protests may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–12286 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Application Type: Amendment of License.

b. Project No.: 2114–091.

c. Date Filed: May 9, 2001.

d. Applicant: Public Utility District No. 2 of Grant County, Washington.

e. Name of Project: Priest Rapids Hydroelectric Project.

f. Location: On the Columbia River, in Grant, Yakima, Kittitas, Douglas, Benton and Chelan Counties, Washington. The project occupies 3,051.92 acres of federal lands administered by the Bureau of Land Management, Department of Energy, Department of Army, Bureau of Reclamation, and the US Fish and Wildlife Service.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Lon Topaz, Public Utility District No. 2 of Grant County, Washington, P.O. Box 878, Ephrata, WA, 98823; (509) 754–6609.

i. FERC Contact: Questions about this notice can be answered by Charles Hall at (202) 219–2853 or e-mail address: *charles.hall@ferc.fed.us.* The Commission cannot accept comments, recommendations, motions to intervene or protests sent by e-mail; these documents must be filed as described below.

j. Deadline for filing comments, motions to intervene, and protests: 14 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of Filing: Public Utility District No. 2 of Grant County, Washington, has filed a request for temporary suspension from May 9, 2001 through the 2001 summer fish migration season of the interim spill requirements of the Commission's May 25, 1994, Order on Interim License Conditions (67 FERC ¶ 61,225) for the Priest Rapids Hydroelectric Project. In its request, the public utility district, said that it would not alter spill flows without first obtaining concurrence from the principal governmental agencies and tribes in the region, including, specifically, the Governor of Washington, the National Marine Fisheries Service, the Northwest Power Planning Council and the Yakima Indian Nation.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules and Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filings must bear in all capital letters the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12296 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11902–000.

c. *Date filed:* March 8, 2001.

d. *Applicant:* Mr. Edward T. Navickis.

e. *Name and Location of Project:* The Lake Pillsbury Project would be located on the Eel River in Lake County, California.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

g. *Applicant contact:* Mr. Edward T. Navickis. P.O. Box 910, Penn Valley, CA 959546, (530) 432–9226, fax (530) 432–2520.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Motions to intervene, protests, and comments may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.3001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11902–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project, using the existing Lake Pillsbury impoundment formed by Scott Dam, which has a storage capacity of 80,556 acre-feet, would consist of: (1) A powerhouse with a total installed capacity of 2.5 megawatts; (2) a nine-mile-long, three phase transmission line; and (3) appurtenant facilities. The project would have an average annual generation of 15 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Responsive Documents*—Any filing must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12299 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions to Intervene

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11905–000.

c. *Date filed:* March 16, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name and Location of Project:* The Bull Lake Dam Project would be located on Bull Lake Creek in Fremont County, Wyoming.

f. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

g. *Applicant contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, fax (208) 745–7909.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Motions to intervene, protest, and comments 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*. Please include the project number (P–11905–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would use the existing Bull Lake Dam impoundment with a storage capacity of 152,500 acre-feet and consist of: (1) A powerhouse with a total installed capacity of 4 megawatts; (2) a 260-foot-long, 8.5-foot-diameter penstock; (3) a 14-mile-long, 25 kv transmission line; and (4) appurtenant facilities. The project would have an average annual generation of 26 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commis8ion, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no late than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rule of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take,the Commission will consider all protest or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS.'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower administration and Compliance, federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be serve upon each representative of the Applicant specified in the particular application.

r. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12300 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11908–000.

c. *Date filed:* March 19, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Lemon Dam Project.

f. *Location:* On the Florida River, in La Plata County, Colorado. Would utilize the existing Bureau of Reclamation's Lemon Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, president, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for Filing Motions To Intervene, Protests and Comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11908–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau of Reclamation's Lemon Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 800-foot-long, 48-inch-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 4 MW; (4) a proposed 14-mile-long, 25 kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 35 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts.Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'' as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by producing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representative.

David P. Boergers,

Secretary.

[FR Doc. 01–12301 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11910–000.

c. *Date filed:* March 19, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Applegate Dam Project.

f. *Location:* On the Applegate River, in Jackson County, Oregon. Would utilize the existing U.S. Army Corps of Engineers' Applegate Dam.

g. *Filed Pursuant to:* Federal Power Act, USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., PO Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

J. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11910–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Applegate Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 100–foot-long, 10-foot-diameter steel penstock; (3) a proposed powerhouse containing two generating units having a total installed capacity of 12 MW; (4) a proposed 1.5-mile-long 25–kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 38 GWh that would be sold to a local utility.

1. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of inent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'' , ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12302 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 10, 2001.

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 11911–000.

c. *Date Filed:* March 20, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Eagle Rock Hydroelectric Project.

f. *Location:* On the Snake River, approximately 18 miles southwest of the town of American Falls, in Power County, Idaho. The project would be located on federal lands administered by the Bureau of Land Management and private lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, (fax) (208) 745–7909, or e-mail address *npsihydro@aol.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: *lynn.miles@ferc.fed.us.*

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments recommendation, interventions, and protests, may be electronically filed 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/efe/doorbell.htm.*

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* (1) A proposed small earth-fill dam approximately 30 feet high and 350 feet long; (2) a proposed reservoir having a surface area of 250 acres with a storage capacity of 2,250 acre-feet at an normal water surface elevation of 4,242 feet; (3) a 2000-foot-long power canal; (4) a 24-foot-diameter 400 foot-long steel penstock; (5) a concrete powerhouse containing one generating unit with an installed capacity of 20 megawatts; (6) a 138 kv transmission line approximately 2.5 miles long; and (7) appurtenant facilities.

The project would have an annual generation of 105 GWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211,.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filing must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12303 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11917–000.

c. *Date filed:* March 22, 2001.

d. *Applicant:* Edward T. Navickis.

e. *Name of Project:* Boca Power Project.

f. *Location:* On the Little Truckee River, in Nevada County, California. No federal land or facilities would be used.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Edward T. Navickis, P.O. Box 910, Penn Valley, CA 95946, (530) 432–9226.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for Filing Motions To Intervene, Protests and Comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11917–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedures require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau of Reclamation's Boca Dam and impoundment would consist of: (1) A proposed 8-foot-long, 50-inch-diameter steel penstock; (2) a proposed powerhouse containing one generating unit having a total installed capacity of 1.125 MW; (3) a proposed 2000-foot-long, transmission line; and (4) appurtenant facilities.

The project would have an annual generation of 5 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12304 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11920–000.

c. *Date Filed:* March 26, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Angostura Dam Hydroelectric Project.

f. *Location:* On the Cheyenne River in Fall River county, South Dakota. The project would use the U.S. Bureau of Reclamation's Angostura Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, (fax) (208) 745–7909, or e-mail address: *npsihydro@aol.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: *lynn.miles@ferc.fed.us.*

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments recommendation, interventions, and protests, may be electronically filed 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.*

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would use the existing U.S. Bureau of Reclamation's Angostura Dam and Reservoir and would consist of: (1) A proposed 54-inch diameter, 100 foot-long steel penstock; (2) a powerhouse containing one generating unit with an installed capacity of 5MW; (3) a proposed 9-mile-long 60kV transmission line; and (4) appurtenant facilities.

The project would have an annual generation of 43.8 GWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedures, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene mut also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12305 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protects, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11922–000.

c. *Date filed:* March 26, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Caballo Dam Project.

f. *Location:* On the Rio Grande River, in Sierra County, New Mexico. Would utilize the existing Bureau Of Reclamation's Caballo Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (202) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comment:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11922–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau Of Reclamation's Caballo Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 300-foot-long, 54-inch-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 7 MW; (4) a proposed 10-mile-long, 25-kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 34 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene mut also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file

comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12306 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11923–000.

c. *Date filed:* March 28, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Cle Elum Dam Project.

f. *Location:* On the Cle Elum River, in Kittitas County, Washington. Would utilize the existing Bureau of Reclamation's Cle Elum Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11923–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau of Reclamation's Cle Elum Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 300-foot-long, 240-inch diameter steel penstock; (3) a proposed powerhouse containing two generating unit having a total installed capacity of 10 MW; (4) a proposed 10-mile-long, 25-kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 87.6 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (2020 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filing must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application.

A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12307 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11925–000.

c. *Date filed:* March 28, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Arthur R. Bowman Dam Project.

f. *Location:* On the Crooked River, in Crook County, Oregon. Would utilize the existing Bureau Of Reclamation's Arthur R. Bowman Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., PO Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11925–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau Of Reclamation's Arthur R. Bowman Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 100-foot-long, 120-inch-diameter steel penstock; (3) a proposed powerhouse containing two generating units having a total installed capacity of 3 MW; (4) a proposed 8-mile-long, 15-kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 15 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12308 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11926–000.

c. *Date filed:* March 28, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* John Redmond Dam Project.

f. *Location:* On the Neosho River, in Coffey County, Kansas. Would utilize the U.S. Army Corps of Engineers' John Redmond Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11926–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' John Redmond Dam and would consist of: (1) A proposed intake structure; (2) a proposed 100-foot-long, 48-inch-diameter steel penstock; (3) a proposed powerhouse containing three generating units having a total installed capacity of 6.5 MW; (4) a proposed 3-mile-long, 25 kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 19.5 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit.*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each

representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12309 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11927–000.

c. *Date filed:* March 28, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Kachess Dam Project.

f. *Location:* On the Kachess River, in Kittitas County, Washington. Would utilize the existing Bureau of Reclamation's Kachess Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11927–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau of Reclamation's Kachess Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 300-foot-long, 120-inch-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 3.2 MW; (4) a proposed 8-mile-long, 15-kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 28 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory

Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12310 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11928–000.

c. *Date filed:* March 28, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Oologah Lake Project.

f. *Location:* On the Verdigris River, in Rogers County, Oklahoma. Would utilize the U.S. Army Corps of Engineers' Oologah Lake Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11928–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Oologah Lake Dam and would consist of: (1) A proposed intake structure; (2) a proposed 200-foot-long, 240-inch diameter steel penstock; (3) a proposed powerhouse containing two generating units having a total installed capacity of 7.9 MW; (4) a proposed 5-mile-long, 25-kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 52.2 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*— Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*— Any development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*— A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*— A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of Preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*— Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who filed a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*— Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional

copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*— Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12311 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11929–000.

c. *Date filed:* March 29, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Glen Elder Dam Project.

f. *Location:* On the Solomon River, in Mitchell County, Kansas. Would utilize the Bureau of Reclamation's Glen Elder Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745-8630.

i. *FERC Contact:* Robert Bell, (202) 219-2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11929–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau of Reclamation's Glen Elder Dam and would consist of: (1) A proposed intake structure; (2) a proposed 100-foot-long, 80-inch-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 3.5 MW; (4) a proposed 2-mile-long, 15 kV transmission line; and (5) appurtenant facilities

The project would have an annual generation of 4.3 GWh that would be sold to a local unity.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application not later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the Commission's Rules may become a party to the proceedings. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent,

competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12312 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11930–000.

c. *Date filed:* March 29, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Perry Dam Project.

f. *Location:* On the Delaware River, in Jefferson County, Kansas. Would utilize the U.S. Army Corps of Engineers' Perry Dam.

g. *Filed Pursuant to:* Federal Power Act 16 USC §§ 791(a)-825(r).

h *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Service, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (Original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11930–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Perry Dam and would consist of: (1) A proposed intake structure; (2) a proposed 100-foot-long, 120-inch-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 4.5 MW; (4) a proposed mile-long, 25kv transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 13.1 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, Located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent,

competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12313 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulary Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11931–000.

c. *Date filed:* March 29, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Milford Dam Project.

f. *Location:* On the Republican River, in Geary County, Kansas. Would utilize the U.S. Army Corps of Engineers' Milford Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 188 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11931–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Milford Dam and would consist of: (1) A proposed intake structure; (2) a proposed 100-foot-long, 96-inch-diameter steel penstock; (3) a proposed powerhouse containing two generating units having a total installed capacity of 8.2 MW; (4) a proposed mile-long, 25-kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 29.7 GWh that would be sold to a local utility.

l. A copy of the application is a available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE. Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http:/www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned

address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments.*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12314 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11932–000.

c. *Date filed:* March 29, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* W.D. Mayo Lock & Dam Project.

f. *Location:* On the Arkansas River, in Sequoyah County, Oklahoma. Would utilize the U.S. Army Corps of Engineers' W.D. Mayo Lock & Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11932–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commissioner elating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' W.D. Mayo Lock & Dam and would consist of: (1) A proposed intake structure (2) a proposed 200-foot-long, 120-inch-diameter steel penstock; (3) a proposed powerhouse containing three generating units having a total installed capacity of 30 MW; (4) a proposed 2-mile-long, 25–kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 124 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us.online.rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedures, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory

Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene mut also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12315 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11934–000.

c. *Date filed:* March 30, 2001.

d. *Applicant:* Byram Hydropower, Inc.

e. *Name of Project:* Byram Hydropower Project.

f. *Location:* On the Big Wood River and the Twin Falls North Side Main Canal (X Canal), in Gooding county, Idaho. The project would not utilize federal lands.

g. *File Pursuant to:* Federal Power Act, 16 USC §§ .791(a)–825(r).

h. *Applicant Contact:* Mr. Silvio Coletti, Byram Hydropower, Inc., 2727 South Merrimac Place, Boise, ID 83709, (208) 562–1527.

i. *FERC Contact:* Regina Saizan, (202) 219–2673.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Please include the Project Number (P–11934–000) on any comments, protests, or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) A proposed intake; (2) a proposed 900-foot-long, 64-inch-diameter steel penstock; (3) a proposed powerhouse containing two turbine/generating units having an installed capacity of 697 kW; and (4) appurtenant facilities.

The project would have an annual generation of 6.53 GWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NW., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 384.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each

representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12317 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11939–000.

c. *Date filed:* April 2, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Horsetooth Reservoir Outlet Project.

f. *Location:* On the Horsetooth Reservoir, in Larimer County, Colorado. Would utilize federal lands administered by the Bureau of Reclamation.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11939–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project using the Bureau of Reclamation's Horsetooth Reservoir Dam and would consist of: (1) A proposed intake structure; (2) a proposed 500-foot-long, 120-inch-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 2.5 MW; (4) a proposed mile-long, 15-kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 20.5 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http//:www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application.) A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, 214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory

Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12318 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11940–000.

c. *Date filed:* April 4, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Willow Creek Reservoir Dam Project.

f. *Location:* On the Willow Creek, in Lewis and Clark County, Montana. Would utilize the existing Bureau Of Reclamation's Willow Creek Reservoir Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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*. Please include the project number (P–11940–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau Of Reclamation's Willow Creek Reservoir Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 500-foot-long, 240-inch-diameter steel penstock; (3) a proposed powerhouse containing four generating units having a total installed capacity of 10 MW; (4) a proposed 5-mile-long, 15 kV transmission lien; and (5) appurtenant facilities.

The project would have an annual generator of 87.6 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional

copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12319 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11941–000.

c. *Date filed:* April 2, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Alta Lakes Project.

f. *Location:* On the Alta Lakes, in San Miguel County, Colorado. Would utilize the land and dam administered by the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.us/efi/doorbell.htm.* Please include the project number (P–11941–000) on my comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Forest Service's Alta Lakes Dam and would consist of: (1) A proposed intake structure; (2) a proposed 5000-foot-long, 18-inch-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 749 kW; (4) a proposed mile-long, 15–kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 1.45 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE.,

Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be resumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12320 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11945–000.

c. *Date filed:* April 9, 2001.

d. *Applicant:* Symbiotic, LLC.

e. *Name of Project:* Dorena Lake Dam Project.

f. *Location:* On the Row River, in Lane County, Oregon. Would utilize the existing U.S. Army Corps of Engineers' Dorena Lake Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11945–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Dorena Lake Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 900-foot-long, 8-foot-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 4 MW; (4) a proposed 6-mile-long, 25 kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 26.3 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by

the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12321 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11946–000.

c. *Date filed:* April 9, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Unity Dam Project.

f. *Location:* On the Burnt River, in Baker County, Oregon. Would utilize the existing Bureau Of Reclamation's Unity Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11946–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau Of Reclamaiton's Unity Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 220-foot-long, 6-foot-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having a installed capacity of 4 MW; (4) a proposed 6-mile-long, 15–kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 26.2 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*— Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*— Any development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36

o. *Notice of intent*— A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*— A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*— Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who filed a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*— Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents

must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*— Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12322 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11947–000.

c. *Date filed:* April 10, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Warm Springs Dam Project.

f. *Location:* On the Malheur River, in Maheur County, Oregon. Would utilize the existing Bureau of Reclamation's Warm Springs Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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*. Please include the project number (P–11947–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau Of Reclamation's Warm Springs Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 200-foot-long, 6-foot-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 3 MW; (4) a proposed 2-mile-long, 15–kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 19.7 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the

Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One Copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12323 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11948–000.

c. *Date Filed:* April 10, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Agency Valley Dam Project.

f. *Location:* On the Malheur River, in Malheur County, Oregon. Would utilize the existing Bureau Of Reclamation's Agency Valley Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed 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.* Please include the project number (P–11948–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau Of Reclamation's Agency Valley Dam and impoundment would consist of: (1) A proposed intake structure (2) two proposed 150-foot-long, 3-foot-diameter steel penstock; (3) a proposed powerhouse containing two generating units having a total installed capacity of 2 MW; (4) a proposed 0.25-mile-long, 15–kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 13.1 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT

TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12324 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6981–2]

Notice of Approval of Prevention of Significant Deterioration (PSD) Permit to Midway Sunset Cogeneration Company (Permit No. SJ–00–01)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA Region 9 is hereby providing notice that it issued PSD permit to Midway Sunset Cogeneration Company.

The permit (Authority to Construct) was issued on April 20, 2001. Since no comments were received during the public comment period and the proposed permit conditions were not changed in the final permit, the final permit became effective immediately. The proposed Western Midway Sunset Cogeneration Project (WMSCP) will be located adjacent to an existing 225 MW Midway Sunset Cogeneration Plant (MSCP) in western Kern County near the communities of Fellows and McKittrick in California. The proposed WMSCP is a natural gas-fired combined cycle power plant, with a nominal electrical output of 500 MW. The proposed facility is subject to PSD for Carbon Monoxide (CO). The permit includes the Best Available Control Technology (BACT) emission limit of 4 ppmvd (three-hour averaging at 15% O_2). Continuous emission monitoring is required for NO_X, CO and O_2. To limit SO_X emissions, the fuel type is limited to the use of pipeline-quality natural gas. The proposed plant is also subject to New Source Performance Standards, Subparts A and GG, and the Acid Rain program under title IV of the Clean Air Act.

Concurrently, on April 20, 2001, we issued a revised PSD permit for the existing power plant (Permit No. SJ–87–01) to allow it to retrofit its three existing turbines with low NO_X burners.

FOR FURTHER INFORMATION CONTACT: If you have any questions or would like a copy of the permits, please contact Nahid Zoueshtiagh at (415) 744–1261. You may also contact us by mail at: Permits Office (Air–3), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Judicial Review: No comments were received on the proposed permits and no appeals were filed concerning these permits before the Environmental Appeals Board pursuant to 40 CFR 124.19.

40 CFR 124.19(f)(2) requires notice of any final agency action regarding a PSD permit to be published in the **Federal Register**. Section 307(b)(1) of the Clean Air Act provides for review of final agency action that is locally or regionally applicable in the United States Court of Appeals for the appropriate circuit. Such a petition for review of final agency action must be filed within 60 days from the date of notice of such action in the **Federal Register**. (However, 40 CFR 124.19(f)(1) provides that, for purposes of judicial review under the Clean Air Act, final agency action occurs when a final PSD permit is issued or denied by EPA *and* agency review procedures are exhausted.)

Dated: May 8, 2001.

Jack P. Broadbent,

Director, Air Division, Region IX.

[FR Doc. 01–12358 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00718; FRL–6783–1]

Workshop Series on Bt Corn Insect Resistance Management Framework Development; Notice of Public Workshops

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will hold a series of small expert group (about 15 people) workshops focusing on Bt corn insect resistance management (IRM). These workshops are designed to provide EPA with information on the following general topics: Pest simulation model design and validation, resistance monitoring and field survey techniques with validation, resistance monitoring program design and resistance control strategies (refuges, seed mixtures, etc.), and remedial action plans. Information from these workshops will be used to assist the Agency in the design and evaluation of effective insect resistance management strategies for Bt corn. EPA will provide a publically-available workshop report after all four workshops have been concluded.

DATES: The first workshop will be held on June 4–5, 2001, from 8 a.m. to 5 p.m. The second workshop will be held on July 26–27, 2001, from 8 a.m. to 5 p.m.

Requests to participate in the workshops must be received on or before May 31, 2001, for the first workshop and July 23, 2001, for the second workshop.

ADDRESSES: The workshops will be held at EPA's Conference Center, WIC 1 North, Waterside Mall, 401 M St., SW., Washington DC 20460. Space is limited.

Requests to participate may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit II. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your request must identify docket control number OPP–00718 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: John Glaser, National Risk Management Research Laboratory, Environmental Protection Agency, 26 W. King Dr., Cincinnati, OH 45268; telephone number: (513) 569–7568; fax number: (513) 487–2511; e-mail address: glaser.john@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to registrants and users of Bt corn under the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as well as non-users of Bt corn and the public. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about the Office of Research and Development (ORD) workshops on Bt corn IRM, go directly to the Home Page for Biopesticides at http://www.epa.gov/pesticides/biopesticides, and select ''ORDworkshops.''

2. *In person*. The Agency has established an administrative record for this meeting under docket control number OPP–00718. The administrative record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to the ORD Workshops on Bt Corn IRM, including any information claimed as Confidential Business Information (CBI). This administraive record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the administrative record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. How Can I Request To Participate in This Meeting?

You may submit a request to participate in this meeting through the mail, in person, or electronically. Do not submit any information in your request that is considered CBI. Your request must be received by EPA on or before May 31, 2001, for the first workshop on June 4th and 5th and July 23, 2001, for the second workshop on July 26th and 27th. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00718 in the subject line on the first page of your request.

1. *By mail*. You may submit a request to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your request electronically by e-mail to: opp-docket@epa.gov. Do not submit any information electronically that you consider to be CBI. Use WordPerfect 6.1/8.0 or ASCII file format and avoid the use of special characters and any form of encryption. Be sure to identify by docket control number OPP–00718. You may also file a request online at many Federal Depository Libraries.

III. Focus of Workshops

The first workshop (June 4-5) will focus on pest simulation model design and validation. The second workshop (July 26-27) will focus on resistance monitoring and field survey techniques with validation. The third workshop will focus on resistance monitoring program design and resistance control strategies (refuges, seed mixture etc.). The fourth workshop will focus on remedial action plans. The third and fourth workshops will be announced later in a **Federal Register** notice.

List of Subjects

Environmental protection, Bt corn.

Dated: May 3, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–11837 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–S

OFFICE OF NATIONAL DRUG CONTROL POLICY

Renewal of Charter of Drug Free Communities Advisory Commission

AGENCY: Office of National Drug Control Policy.

ACTION: Notice of charter renewal.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 and 41 CFR 101–6.1013, the Office of National Drug Control Policy renewed the Charter of the Drug Free Communities Advisory Commission on May 3, 2001. The renewed charter is available for viewing through the Library of Congress and the United States General Services Administration.

FOR FURTHER INFORMATION CONTACT: Linda V. Priebe, (202) 395–6622, Office of National Drug Control Policy, Executive Office of the President, Washington, DC 20503.

Dated: May 9, 2001.

Linda V. Priebe,

Assistant General Counsel.

[FR Doc. 01–12343 Filed 5–15–01; 8:45 am]

BILLING CODE 3180–02–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974; Systems of Records

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of amended, altered and consolidated systems of records.

SUMMARY: The Federal Deposit Insurance Corporation (''FDIC'') has conducted a review of systems of records notices published pursuant to the Privacy Act of 1974 (5 U.S.C. 552a, ''Privacy Act'') and now publishes this notice of amended, revised, and consolidated systems of records.

DATES: Comments on the proposed routine uses for the systems of records included in this notice must be received by the FDIC on or before June 15, 2001. The amendments, revisions and consolidations that are the subject of

this notice will become effective 45 days following publication in the **Federal Register**, unless a superseding notice to the contrary is published before that date.

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, FDIC, 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*). 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. All comments should refer to ''FDIC Systems of Records.''

FOR FURTHER INFORMATION CONTACT: Fredrick L. Fisch, Senior Attorney, Privacy Act Officer, FDIC, Office of the Executive Secretary, 550 17th Street, NW., Washington, DC, 20429, (202) 898–3819.

SUPPLEMENTARY INFORMATION: The Privacy Act applies to information about individuals that may be retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a ''record''' and the system, whether manual or computer-driven, is called a ''system of records.'' A system is considered altered whenever certain fundamental changes are made to the system, such as whenever certain disclosures, called ''routine uses,'' are changed. U.S. Office of Management and Budget Circular A–130, Appendix I specifies periodic reviews of Privacy Act systems of records. In accordance with the reviews specified in Circular A–130, Appendix I, the FDIC has conducted a thorough review of FDIC's systems of records for accuracy and completeness. The FDIC has specifically considered changes in technology, function, and organization that may have rendered existing systems of records notices out-of-date and reviewed the routine uses published in the system notices to make sure they are necessary and compatible with the purposes for which the information is collected. Pursuant to that review, the FDIC hereby publishes this notice of amended, altered and consolidated systems of records. In its review, the FDIC has determined that two of its systems of records should be consolidated and that the remaining twenty-one systems notices require either technical and/or substantive revision.

Many of the revisions to existing systems of records reflected by this notice are minor, technical amendments necessitated by organizational changes within the FDIC. The location of various systems and the FDIC divisions or offices responsible for the maintenance of various systems have been updated to reflect these changes. Also, minor revisions have been made to clarify or more accurately describe various system elements and to insure the use of consistent language wherever possible.

The FDIC has identified two systems of records which should be consolidated (system 30–64–0009, Examiner Training and Education Records—FDIC and system 30–64–0007, Employee Education System—FDIC). Each system contains information about the educational and training course history of certain categories of employees. For reasons of efficiency, these systems are consolidated as system 30–64–0007, and the system name is changed to ''Employee Training Information Records.''

Additional substantive revisions to FDIC systems of records notices are as follows:

1. A statement of the purpose(s) for maintaining each system of records is added to each system notice.

2. The ''Contesting record procedures'' section included in each system notice is amended to provide that individuals wishing to amend or contest information in the system should indicate the information being contested, the reason for contesting it, and the proposed revision to the information.

3. The ''Notification procedure'' of each system notice has been updated to provide that individuals requesting their own records must provide a notarized statement attesting to their identity.

4. A routine use presently included in sixteen system notices (30–64–0001, –0002, –0005, –0006, –0008, –0010, –0011, –0012, –0013, –0016, –0018, –0019, –0020, –0022, –0023 and –0024) regarding disclosure of information to courts, magistrates or administrative tribunals in connection with civil or criminal proceedings is amended to limit disclosure to instances when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary. This routine use has also been added to two systems, 30–64–0003 and –0017 as further detailed in the notices below.

5. A statement entitled ''Disclosures to consumer reporting agencies'' providing that ''information, pursuant to subsection (b)(12) of the Privacy Act, may be disclosed to consumer reporting agencies in accordance with 31 U.S.C. 3711(e)'' is added to five systems (30–64–0002, –0007, –0010, –0012, and –0022) and updated in one other system (30–64–0020). The update is to reference 31 U.S.C. 3711(e), thereby tracking the language of subsection (b)(12) of the Privacy Act and to note limitations on the disclosures. (Individuals are referred to 31 U.S.C. 3701(a)(3) and 15 U.S.C. 1681a(f) for a definition of the term ''consumer reporting agency.'') The purpose of these disclosures is to provide an incentive for debtors to the FDIC to repay debts to the FDIC by making these debts part of their credit records. Disclosure of records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

6. A routine use providing that information may be disclosed to debt collection agents, to any appropriate Federal agency, or to other third parties who are authorized to collect a Federal debt for the purpose of collecting delinquent debts due to the FDIC is added to six systems (30–64–0002, –0007, –0010, –0012, –0020 and –0022). The purpose of this disclosure is to implement relevant portions of the Debt Collection Improvement Act of 1996. Disclosure of records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

7. A routine use providing that information may be disclosed to consultants and contractors to the extent that the information is relevant and necessary for them to perform their function or fulfill their contract is added to twelve systems (30–64–0003, –0004, –0005, –0007, –0008, –0010, –0011, –0012, –0016, –0018, –0019 and –0020). The routine use contains the proviso that those consultants and contractors are subject to the relevant provisions of the Privacy Act.

8. The ''Safeguards'' subsection of all system notices with records stored in electronic media is amended to state that records so stored are now password protected and accessible only by authorized personnel.

9. A ''Note'' is added to system 30–64–0001 (Attorney-Legal Intern Applicant Records) to provide for future record storage in electronic media.

10. The ''Categories of records in the system'' section in system 30–64–0002

(Financial Institutions Investigative and Enforcement Records) is amended to add suspicious activity reports. A ''Note'' is added after the ''Categories of records in the system'' section which states that certain records in the system may be proprietary to other Federal entities and that the FDIC may forward requests for such records to the originating agency. Routine use #2 is modified to include reporting of information contained in this system to licensing and standards boards, such as the bar associations and other groups who set standards of conduct for their professional members. The ''Record access procedures'' are revised to give notice of certain exemptions from disclosure under 12 CFR 310.13 and 5 U.S.C. 552a(j)(2) and (k)(2).

11. The ''Routine uses of records'' section in system 30–64–0003 (Administrative and Personnel Action Records) is revised to add three routine uses which authorize the disclosure of information to a court, magistrate or administrative tribunal and to certain government agencies for the specific purposes and subject to the limitations described in the routine uses.

12. The ''Categories of records in the system'' section in system 30–64–0004 (Changes in Bank Control Ownership Records) is amended to include certain financial information of proposed acquirers. The ''Routine uses of records'' section is revised to delete the current routine use and to add four routine uses which provide for disclosure of information to: Federal or state financial institution supervisory authorities; a court, magistrate or administrative tribunal; Federal, state or local regulatory authorities; and to a congressional office. The ''Notification procedure'' subsection is revised to provide that individuals requesting records about themselves must furnish their name, address, and the name and address of the FDIC insured institution. The ''Record source categories'' section is amended to add persons who filed a ''Change in Control Notice'' or ''Notice of Acquisition of Control'' forms during the period from 1989 to 1995. Also, a ''Note'' is included in the notice to advise that the system was maintained only for the period from 1989 to 1995, and that the resultant, current records system does not maintain information retrievable by name or any personal identifier.

13. The ''Authority for maintenance of the system'' section in system 30–64–0005 (Consumer Complaint and Inquiry Records) is revised to add section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819). The ''Notification procedure'' section is amended to provide that requests must include the name and address of the complainant or inquirer and the name and address of the insured depository institution that is the subject of the inquiry.

14. The ''Categories of records in the system'' section of system 30–64–0006 (Employee Confidential Financial Disclosure Records) is revised (i) to delete the Confidential Report of Employment Upon Resignation, and (ii) to delete from category (5) the limitation that certain employees' credit cards issued by FDIC insured state nonmember banks must not exceed a $10,000 line of credit. The ''Policies and practices'' section for storing, retrieving and safeguarding system records is updated to reflect that records are stored in electronic media, as well as paper format. A ''Note'' is added to the notice advising that various categories of records in the system are maintained in addition to those maintained in the government-wide system maintained by the United States Office of Government Ethics (known as ''OGE/GOVT–2'').

15. As noted above, the system name of 30–64–0007, formerly known as ''Employee Education System—FDIC,'' is consolidated with system 30–64–0009 (Examiner Training and Education Records—FDIC) and is changed to ''Employee Training Information Records.'' The ''Category of records in the system'' section is amended to delete records pertaining to the educational history of employees prior to employment with the FDIC. The ''Routine uses of records'' section is revised to add a routine use which authorizes the disclosure of information to a court, magistrate, mediator or administrative tribunal. Also, a routine use providing for disclosure of information to vendors and other appropriate third parties for the purpose of verification of training or licensing requirements is amended to include professional licensing boards.

16. The name of system 30–64–0008, formerly known as the Chain Bank Report, is changed to ''Chain Banking Organizations Identification Records.'' The ''Category of records'' section is amended to include stock certificate numbers, total asset size, the percentage of stock ownership, name of intermediate holding company and the percentage of holding company stock held by the controlling individual or group owning or controlling two or more insured depository institutions. The ''Policies and practices'' section for storing, retrieving and safeguarding the system records is updated to reflect that records are stored only in electronic media and are retrievable by an assigned identification number, as well as by name.

17. The name of system 30–64–0010, formerly known as ''Investigative Files and Records,'' is changed to ''Investigative Files of the Office of the Inspector General.'' The ''Category of records in the system'' section is amended to include records and information regarding possible violations of the FDIC employee and contractor Standards of Conduct. Routine uses (1), (2) and (5) are revised, and eight new routine uses are included which authorize the disclosure of information to various agencies, organizations or individuals for the specific purposes and subject to the limitations described in the routine uses. These routine uses are compatible with the purposes for which the records were assembled, as they are narrowly tailored under limited circumstances and are exemplary of other approved routine uses for other records of Inspectors General in other federal agencies subject to the Privacy Act. A ''Note'' is added after the routine uses stating that records may additionally be disclosed if they are also present in other nonexempt systems of records. The ''Retention and disposal'' section is amended to provide that records will be retained for a period of ten years and then destroyed. A second ''Note'' after the ''Notification procedure'' subsection is added to give the proviso that some records may be exempt from the disclosure provisions of the Privacy Act as further explained in a subsequent subsection of the notice.

18. The name of system 30–64–0011, formerly known as the ''Vacancy Announcement Tracking System,'' is changed to ''Corporate Recruitment Tracking Records.'' The Office of Government Ethics is added as an agency to which information may be disclosed under routine use (1).

19. The name of system 30–64–0012, formerly known as the ''Financial Information System'', is changed to ''Financial Information Management Records.'' The ''System location'' section is revised to specify that certain records concerning FDIC employees are located with the General Counsel, Legal Division. A similar change is implemented for the ''System manager'' section, but only as to limited, specific records enumerated in the system notice. The ''Categories of individuals covered by the system'' section is amended to include ''FDIC customers.'' A ''Note'' is added after the ''Categories of individuals covered by the system'' section stating that the system also contains records concerning failed bank receiverships, corporations and other

entities the records of which are not subject to the Privacy Act. The ''Authority for maintenance of the system'' section is amended to delete the reference to the Travel Expense Act of 1949. Routine use (6) providing for disclosure of information to the U.S. Treasury Department for use in the preparation of savings bonds is deleted. The ''Retention and disposal'' section has been revised to provide that certain of the system records are to be retained for a period of ten years and then transferred to the Federal Records Center or destroyed. The ''Notification procedure'' subsection has been revised to state that individuals seeking access to the system must include certain identifying information to aid in the location of records.

20. The ''System location'' section of 30–64–0013 (Insured Bank Liquidation Records) is revised to reflect that records are now only located in Washington, DC or Dallas, Texas. The ''Categories of individuals covered by the system'' section is amended to include obligees of failed financial institutions for which FDIC has been appointed receiver or liquidator or provided with open-bank assistance. A ''Note'' is added after the aforementioned section which states that this system of records may also contain many records about business entities and other organizations that may not be subject to the Privacy Act. The ''Categories of records in the system'' section is revised to include records concerning receivership claims filed by claimants, creditors, or obligees of the failed financial institution. A ''Note'' is added after the aforementioned section which gives notice that records are only held in the system if not inconsistent with any state law governing failed financial institution receiverships.

21. The name of system 30–64–0016, formerly known as the ''Municipal Securities Dealers and Government Securities Brokers/Dealers Personnel Records System,'' is changed to ''Professional Qualification Records for Municipal Securities Dealers, Municipal Securities Representatives and U.S. Government Securities Brokers/Dealers.''

22. The name of system 30–64–0017, formerly known as the ''Medical Records and Emergency Contact Information System,'' is changed to ''Employee Medical and Health Assessment Records.'' ''Notes'' are added advising that (i) in addition to the FDIC system of records, the United States Office of Personnel Management maintains its own government-wide system of records (known as ''OPM/GOVT–10''), and (ii) the records are disclosed only to a very limited number of FDIC officials. Eight routine uses are added to authorize disclosure of information to various offices, agencies, or organizations for the specific purposes and subject to the limitations described in the routine uses. The ''Policies and practices'' section for storing and safeguarding the records is amended to reflect that records are stored in electronic media, as well as paper format. The ''Notification procedure'' section is revised to provide that all requests must contain the requestor's name and office where employed. The ''Record source'' section is amended to include records from health screening programs, ergonomic assessments or requests for health or medical accommodation.

23. The ''Authority for maintenance of the system'' section for system 30–64–0018 (Grievance Records) is revised to include section 9 of the Federal Deposit Insurance Act. Routine use (6), concerning release to the National Archives for records management inspections is deleted. The ''Storage'' subsection of the section, ''Policies, and practices for storing, retrieving, accessing, retaining, and disposing of records in the system'' is amended to provide that some of the records in the system may be stored in electronic media.

24. The name of system 30–64–0019, formerly known as the ''Secondary Marketing Asset Prospect System,'' is changed to ''Potential Bidders List.''

25. The ''Categories of individuals covered by the system'' section in system 30–64–0020 (Telephone Call Detail Records) is amended to include individuals who receive calls placed from or charged to FDIC telephones. Routine use (2), concerning release of information to the General Services Administration or the National Archives and Records Administration, is deleted.

26. Two routine uses are added to system 30–64–0021 (Fitness Center Records) to allow for the release of information to courts, magistrates or administrative tribunals and to contractors or subcontractors under the restrictions and limitations detailed in the routine uses. A ''Note'' is added to provide for future record storage in electronic media.

27. The ''Category of records in the system'' section in system 30–64–0022 (Freedom of Information Act and Privacy Act Request Records) is expanded to further and better explain the types of records found in the system. A ''Note'' is added immediately after the aforementioned section which states that other Privacy Act records could become part of this system during the course of processing a request. The ''System manager and address'' section is updated to further identify the correct contact position within the Office of the Executive Secretary. The ''Records access procedures'' and ''Contesting record procedures'' sections are amended to note that material from FDIC systems of records which are exempt from certain Privacy Act requirements may be included in this system of records, and, if so, the material will retain its original exemption.

28. The ''System location'' section in system 30–64–0023 (Affordable Housing Program Records) is amended to reflect that all records in the system are now in one location. The ''Categories of individuals covered by the system'' section is revised to remove superfluous language. A ''Note'' is added immediately after the aforementioned section which sets forth some basic requirements for participation in FDIC's Affordable Housing Program.

29. The name of system 30–64–0024, formerly known as the ''Unclaimed Deposits Reporting System,'' is changed to ''Unclaimed Deposit Account Records.'' The ''System location'' section is amended to reflect that all records in the system are now in one location.

System of records 30–64–0015 (Unofficial Personnel System) is not being revised at this time. An amended Notice of this system will be published at a later date.

Accordingly, the FDIC proposes to adopt the following systems of records in their entirety as set forth below:

Federal Deposit Insurance Corporation

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30–64–0001

SYSTEM NAME:

Attorney—Legal Intern Applicant Records.

SYSTEM LOCATION:

Legal Division, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for the position of attorney or legal intern with the Legal Division of the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence from the applicants and individuals whose names were provided by the applicants as references; applicants' resumes; application forms; and in some instances, comments of individuals who interviewed applicants; documents relating to an applicant's suitability or eligibility; and writing samples.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The information in this system is used to evaluate the qualifications of individuals who apply for attorney or legal intern positions in the Legal Division.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) In requesting information of individuals or concerns whose names were supplied by the applicant as references and/or past or present employers;

(2) To the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, an arbitrator, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective functions;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(4) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal proceedings when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary; and

(5) To the appropriate Federal, State, or local agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper format within individual file folders in file cabinets.

Note: In the future all or some portion of the records may be stored in electronic media. These records will be retrieved by name and will be password protected and accessible only by authorized personnel.

RETRIEVABILITY:

Individual file folders are indexed and retrieved by name. Records of unsuccessful applicants are indexed first by job position category and year and then by name.

SAFEGUARDS:

Records are maintained in lockable metal file cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Records of unsuccessful applicants are retained two years after their submission; records of successful applicants become a part of the FDIC's ''Unofficial Personnel System'' (FDIC 30–64–0015) and are retained two years after the applicant leaves the employ of the FDIC.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Legal Division, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records, or to gain access to records maintained in this system, must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Unsuccessful applicants or those individuals with applications pending with the FDIC who request their records must identify the job position description and year in which they applied. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

The information is obtained from the applicants; references supplied by the applicants; current and/or former employers of the applicants; and FDIC employees who interviewed the applicants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 12 CFR 310.13(b), investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for FDIC employment may be withheld from disclosure to the extent that disclosure of such material would reveal the identity of a source who furnished information to the FDIC under an express promise of confidentiality.

30–64–0002

SYSTEM NAME:

Financial Institutions Investigative and Enforcement Records.

SYSTEM LOCATION:

Division of Supervision, Special Activities Section, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who participate or have participated in the conduct of or who are or were connected with financial institutions, such as directors, officers, employees, and customers, and who have been named in suspicious activity reports, investigatory records, or administrative enforcement orders or agreements. Financial institutions include banks, savings and loan associations, credit unions, other similar institutions, and their affiliates whether or not federally insured and whether or not established or proposed.

(2) Individuals, such as directors, officers, employees, controlling shareholders, or persons seeking to establish control of financial institutions, who are the subject of background checks designed to uncover criminal activities bearing on the individual's fitness to be a director, officer, employee, or controlling shareholder.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains interagency or intra-agency correspondence or memoranda; criminal referral reports; suspicious activity reports; newspaper clippings; Federal, State, or local criminal law enforcement agency investigatory reports, indictments and/or arrest and conviction information; and administrative enforcement orders or agreements.

Note: Certain records contained in this system (principally criminal investigation reports prepared by the Federal Bureau of Investigation, Secret Service, and other federal law enforcement agencies) are the property of federal law enforcement agencies. Upon receipt of a request for such records, the FDIC will notify the proprietary agency of the request and seek guidance with respect to disposition. The FDIC may forward the request to that agency for processing in accordance with that agency's regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 5, 6, 7, 8, 9, 18, and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1815, 1816, 1817, 1818, 1819, 1828, 1829).

PURPOSE(S):

The information is maintained to support the FDIC's regulatory and supervisory functions by providing a centralized system of information (1) for conducting and documenting investigations by the FDIC or other financial supervisory or law enforcement agencies regarding conduct within financial institutions by directors, officers, employees, and customers, which may result in the filing of suspicious activity reports or criminal referrals, referrals to the FDIC Office of the Inspector General, or the issuance of administrative enforcement actions; and (2) to identify whether an individual is fit to serve as a financial institution director, officer, employee or controlling shareholder.

ROUTINE USES OF RECORDS MAINTAINED (OTHER THAN PROPRIETARY RECORDS OF ANOTHER AGENCY) INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(2) To the appropriate Federal, State, or local agency or authority, or to licensing boards, professional associations or administrative bodies responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order when the information indicates a violation or potential violation of law, rule, regulation or order, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(4) To a financial institution affected by enforcement activities or reported criminal activities;

(5) To other Federal, State or foreign financial institutions supervisory or regulatory authorities;

(6) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a); and

(7) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system, pursuant to subsection (b)(12) of the Privacy Act, to consumer reporting agencies in accordance with 31 U.S.C. 3711(e). (The term ''consumer reporting agency'' is defined by 31 U.S.C. 3701(a)(3) and 15 U.S.C. (f).) Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name of the individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized persons. File folders are maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

Electronic media and paper copies are retained until no longer needed.

SYSTEM MANAGERS AND ADDRESS:

Director, Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name and address, the name and address of the FDIC-insured bank, and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURE:

Portions of this system may contain records that are exempt from disclosure under 12 CFR 310.13 and 5 U.S.C. 552a(j)(2) and (k)(2). An individual who

is the subject of a record in this system may access those records that are not exempt from disclosure. A determination whether a record may be accessed will be made at the time a request is received. See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

Portions of this system may contain records that are exempt from disclosure and contest under 12 CFR 310.13 and 5 U.S.C. 552a(j)(2) and (k)(2). An individual who is the subject of a record in this system may contest those records that are not exempt from disclosure. A determination whether a record is exempt from contest shall be made at the time a request is received. See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Financial institutions; financial institution supervisory or regulatory authorities; newspapers or other public records; witnesses; current or former FDIC employees; criminal law enforcement and prosecuting authorities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of the records in this system of records were compiled for law enforcement purposes and are exempt from disclosure under 12 CFR 310.13 and 5 U.S.C. 552a(k)(2). Federal criminal law enforcement investigatory reports maintained as part of this system may be the subject of exemptions imposed by the originating agency pursuant to 5 U.S.C. 552a(j)(2).

30–64–0003

SYSTEM NAME:

Administrative and Personnel Action Records.

SYSTEM LOCATIONS:

Office of the Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been the subject of administrative actions or personnel actions by the FDIC Board of Directors or by standing committees of the FDIC and individuals who have been the subject of administrative actions by FDIC officials under delegated authority.

CATEGORIES OF RECORDS IN THE SYSTEM:

Minutes of the meetings of the FDIC Board of Directors or standing committees and orders of the Board of Directors, standing committees, or other officials as well as annotations of entries into the minutes and orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 8, 9, and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1819, 1829).

PURPOSE(S):

The system is maintained to record the administrative and personnel actions taken by the FDIC Board of Directors, standing committees, or other officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(9) To the appropriate Federal, State, or local agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(10) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(11) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a); and

(12) To the U.S. Office of Personnel Management, General Accounting Office, the Office of Government Ethics, the Merit Systems Protection Board, the Office of Special Counsel, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority or its General Counsel of records or portions thereof determined to be relevant and necessary to carrying out their authorized functions, including but not limited to a request made in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or issuance of a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is necessary and relevant to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media, microfilm, paper format within individual file folders, minute book ledgers and index cards.

RETRIEVABILITY:

Records are indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format, index cards, and minute book ledgers are stored in lockable metal file cabinets or vault accessible only by authorized personnel. A security copy of certain microfilmed portions of the records is retained at another location.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system or seeking access to records maintained in this system must submit their requests in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reason for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Intra-agency records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0004

SYSTEM NAME:

Changes in Bank Control Ownership Records.

SYSTEM LOCATION:

Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who acquired or disposed of voting stock in an FDIC-insured bank resulting in a change of bank control or ownership; and (b) individuals who filed or are included as a member of a group listed in a ''Notice of Acquisition of Control'' of an FDIC-insured bank.

Note: The information is maintained only for the period 1989 to 1995. Commencing in 1996 the records were no longer collected nor maintained on an individual name or personal identifier basis and are not retrievable by individual name or personal identifier. Beginning in 1996, information concerning changes in bank control is collected and maintained based upon the name of the FDIC-insured financial institution or specialized number assigned to the FDIC-insured financial institution.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include the name of proposed acquirer; statement of assets and liabilities of acquirer; statement of income and sources of income for each acquirer; statement of liabilities for each acquirer; name and location of the bank; number of shares to be acquired and outstanding; date ''Change in Control Notice'' or ''Notice of Acquisition of Control'' was filed; name and location of the newspaper in which the notice was published and date of publication. For consummated transactions, names of sellers/transferors; names of purchasers/transferees and number of shares owned after transaction; date of transaction on institution's books, number of shares acquired and outstanding. If stock of a holding company is involved, the name and location of the holding company and the institution(s) it controls.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 7 (j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)).

PURPOSE(S):

The system maintains information on individuals involved in changes of control of FDIC-insured banks for the period 1989 to 1995 and is used to support the FDIC's regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To other Federal or State financial institution supervisory authorities;

(2) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(3) To the appropriate Federal, State, or local agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(4) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains; and

(5) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records for the period 1989 to 1995 are indexed and retrieved by name of the individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized persons. File folders are maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

Electronic media and paper copies are retained until no longer needed and are destroyed in accordance with established FDIC record retention and disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address, the name and address of the FDIC-insured bank, and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend the information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Persons who acquired control of an FDIC-insured bank; the insured bank or holding company in which control changed; filed ''Change in Control Notice'' form and ''Notice of Acquisition of Control'' form during the period 1989 to 1995; Federal and State financial institution supervisory authorities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0005

SYSTEM NAME:

Consumer Complaint and Inquiry Records.

SYSTEM LOCATION:

Division of Compliance and Consumer Affairs, FDIC, 550 17th Street, NW., Washington, DC 20429, and FDIC regional offices for complaints or inquiries originating within or involving an FDIC-insured depository institution located in an FDIC region. (See Appendix A for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted complaints or inquiries concerning

activities or practices of FDIC-insured depository institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence and records of other communications between the FDIC and the individual submitting a complaint or making an inquiry, including copies of supporting documents supplied by the individual. May contain correspondence between the FDIC and the FDIC-insured depository institution in question and/or intra-agency or inter-agency memoranda or correspondence concerning the complaint or inquiry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and sec. 202(f) of title II of the Federal Trade Improvement Act (15 U.S.C. 57a(f)).

PURPOSE(S):

The system maintains correspondence from individuals regarding complaints or inquiries concerning activities or practices of FDIC-insured depository institutions. The information is used to identify concerns of individuals, to manage correspondence received from individuals and to accurately respond to complaints, inquiries, views and concerns expressed by individuals. The information in this system supports the FDIC regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To the insured depository institution which is the subject of the complaint or inquiry when necessary to investigate or resolve the complaint or inquiry;

(2) To authorized third-party sources during the course of the investigation in order to resolve the complaint or inquiry. Information that may be disclosed under this routine use is limited to the name of the complainant or inquirer and the nature of the complaint or inquiry and such additional information necessary to investigate the complaint or inquiry;

(3) To the Federal or State supervisory/regulatory authority that has direct supervision over the insured depository institution that is the subject of the complaint or inquiry;

(4) To the appropriate Federal, State, or local agency or authority responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(5) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(6) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains; and

(7) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Electronic media and paper format are indexed and retrieved by unique identification number which may be cross referenced to the name of complainant or inquirer.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format files are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained for two years after receipt, unless updated by correspondence received during the second year. Electronic media is deleted and paper format records are destroyed in accordance with the FDIC Records Retention and Disposition Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Compliance and Consumer Affairs, FDIC, 550 17th Street, NW., Washington, DC 20429, or the Regional Director, Division of Compliance and Consumer Affairs for records maintained in FDIC regional offices (See Appendix A for the location of FDIC Regional Offices).

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. The request must contain the name and address of the complainant or inquirer and the name and address of the insured depository institution that is the subject of the complaint or inquiry. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual on whom the record is maintained; FDIC-insured depository institutions that are the subject of the complaint; the appropriate agency, whether Federal or State, with supervisory authority over the institution; congressional offices that may initiate the inquiry; and other parties providing information to the FDIC in an attempt to resolve the complaint or inquiry.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0006

SYSTEM NAME:

Employee Confidential Financial Disclosure Records.

SYSTEM LOCATION:

Records are located in component divisions, offices and regional offices to which individuals covered by the system are assigned. Duplicate copies of the records are located in the Office of the Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429. A complete list of record locations is available from the Office of the Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429 (See

Appendix A for a list of the FDIC regional offices and their addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former officers and employees, and special government employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains statements of personal and family financial holdings and other interests in business enterprises and real property; listings of creditors and outside employment; opinions and determinations of ethics counselors; information related to conflict of interest determinations; and information contained on the following forms:

(1) Confidential Financial Disclosure Report—contains listing of personal and family investment holdings, interests in business enterprises and real property, creditors, and outside employment.

(2) Confidential Report of Indebtedness—contains information on extensions of credit to employees, including loans and credit cards, by FDIC-insured depository institutions or their subsidiaries; may also contain memoranda and correspondence relating to requests for approval of certain loans extended by insured banks or subsidiaries thereof.

(3) Confidential Report of Interest in FDIC-Insured Depository Institution Securities—contains a brief description of an employee's direct or indirect interest in the securities of an FDIC-insured depository institution or affiliate, including a depository institution holding company, and the date and manner of acquisition or divestiture; a brief description of an employee's direct or indirect continuing financial interest through a pension or retirement plan, trust or other arrangement, including arrangements resulting from any current or prior employment or business association, with any FDIC-insured depository institution, affiliate, or depository institution holding company; and a certification acknowledging that the employee has read and understands the rules governing the ownership of securities in FDIC-insured depository institutions.

(4) Employee Certification and Acknowledgment of Standards of Conduct Regulation—contains employee's certification and acknowledgment that he or she has received a copy of the Standards of Ethical Conduct for Employees of the FDIC.

(5) Confidential Statement of Credit Card Obligation in FDIC-insured State Nonmember Bank and Acknowledgment of Conditions for Retention—Notice of Disqualification—for Division of Supervision and Division of Compliance and Consumer Affairs employees; identifies FDIC-insured State Nonmember depository institutions outside the employee's region or field office of assignment from which a credit card was obtained, and employee certification that the credit cards listed were obtained only under such terms and conditions as are available to the general public, and that the employee is aware of and understands the requirement for self-disqualification from participation in matters affecting the creditors identified.

Note: The records identified in categories (2)–(5) above are maintained in addition to those maintained by the United States Office of Government Ethics for the government-wide system of records identified as ''Confidential Statements of Employment and Financial Interests,'' (known as OGE/GOVT–2).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Ethics in Government Act of 1978 (5 U.S.C. 7301 and App.); sec. 9 and 12(f) of the Federal Deposit Insurance Act (12 U.S.C. 1819(a) and 1822(f)); 26 U.S.C. 1043; Executive Order Nos. 12674 (as modified by 12731), 12565, and 11222; 5 CFR parts 2634, 2635 and 3201.

PURPOSE(S):

The records are maintained to assure compliance with the standards of conduct for Government employees contained in the Executive Orders, Federal Statutes and FDIC regulations and to determine if a conflict of interest exists between employment of individuals by the FDIC and their personal employment and financial interests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To the appropriate Federal, State or local agency or responsible authority, such information that is necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order when the information indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule, or order issued pursuant thereto;

(2) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(3) To third party sources and their representatives during the course of an investigation to obtain information relevant or pertinent to resolve a conflict or potential conflict of interest. Information is disclosed to the extent necessary and pertinent to conduct an investigation with respect to a conflict of interest investigation or determination; and

(4) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation or settlement negotiations, or in connection with the criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name of individual. Electronic media and paper format do not index the names of prospective employees who are not selected for employment.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format copies are maintained in lockable file cabinets.

RETENTION AND DISPOSAL:

Records concerning prospective employees who are not selected for employment are retained for one year and then destroyed, except that documents needed in an ongoing investigation will be retained until no longer needed in the investigation. All other records are retained for six years and then destroyed. Entries maintained in electronic media are deleted, except that paper format documents and electronic media entries needed in an ongoing investigation will be retained until no longer needed for the investigation.

SYSTEM MANAGER(S) AND ADDRESS:

Ethics Counselor, Office of the Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records

or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity. The request must identify the office location of the individual covered by the system.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual or a person or entity designated by the individual; Ethics Counselors; Deputy Ethics Counselors; support personnel or other parties to whom the FDIC has provided information in connection with evaluating the records maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0007

SYSTEM NAME:

Employee Training Information Records.

SYSTEM LOCATION:

Division of Administration, Training and Consulting Services Branch, 3501 Fairfax Drive, Arlington, Virginia 22226; Office of Management and Policy, FDIC Office of Inspector General, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the educational and training course history of an individual while employed by the FDIC. Records include schedule of employee's training classes and other educational programs attended, dates of attendance, tuition fees and expenses. The system may also contain employee certifications on training attended, employee certifications or other information on educational degrees or professional memberships, and other similar information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The system is used by employees, training administrators and managers to record training and educational courses attended and to manage and plan training courses. The system maintains attendance records for an employee of courses attended and is utilized for FDIC internal reporting purposes and to maintain records for applicable continuing education requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, an arbitrator, the Equal Employment Opportunity Commission, or another Federal agency, to the extent disclosure is determined to be relevant and necessary to carry out government-wide personnel management, security, investigatory, adjudicatory and appellate functions, or the issuance of a contract, grant, license or other benefit by a requesting agency;

(2) To a court, magistrate, alternative dispute resolution mediator or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(3) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the record pertains;

(4) To educational institutions for purposes of enrollment and verification of employee attendance and performance;

(5) To vendors, professional licensing boards or other appropriate third parties, for the purpose of verification, confirmation, and substantiation of training or licensing requirements.

(6) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a); and

(7) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system, pursuant to subsection (b)(12) of the Privacy Act, to consumer reporting agencies in accordance with 31 U.S.C. 3711(e). (The term ''consumer reporting agency'' is defined by 31 U.S.C. 3701(a)(3) and 15 U.S.C. 1681a(f).) Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Electronic media are accessible by social security number or name. File folders are indexed and retrieved by name of individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper records within individual file folders are maintained in lockable metal file cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESSES:

Assistant Director, Training Operations, Training and Consulting Services Branch, FDIC, 3501 Fairfax Drive, Arlington, Virginia 22226–3500; Assistant Inspector General, Office of Management and Policy, Office of Inspector General, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records

or seeking access to records maintained in this system must submit their request in writing to Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

The information is obtained from the employee on whom the record is maintained; training administrators and the training facility or institution attended.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0008

SYSTEM NAME:

Chain Banking Organizations Identification Records.

SYSTEM LOCATION:

Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429, and FDIC regional offices. (See Appendix A for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who directly, indirectly, or in concert with others, own or control two or more insured depository institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains information relating to an individual (or group of individuals acting in concert) that own or control two or more insured depository institutions as well as the insured depository institutions names, locations, stock certificate numbers, total asset size, and percentage of outstanding stock owned by the controlling individual or group of individuals; charter types and, if applicable, name of intermediate holding entity and percentage of holding company held by controlling individual or group.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 7(j) and 9 of the Federal Deposit Insurance Act (12 U.S.C. 1817(j) and 1819).

PURPOSE(S):

This system identifies and maintains information of possible linked FDIC-insured depository institutions or holding companies which, due to their common ownership, present a concentration of resources that could be susceptible to common risks. The information in this system is used to support the FDIC's regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To other Federal or State financial institution supervisory authorities for: (a) Coordination of examining resources when the chain banking organization is composed of insured depository institutions subject to multiple supervisory jurisdictions; (b) coordination of evaluations and analysis of the condition of the consolidated chain organization; and (c) coordination of supervisory, corrective or enforcement actions;

(2) To the appropriate Federal, State or local agency or responsible authority, such information that is necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation or order, when the information indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto;

(3) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(4) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains; and

(5) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media.

RETRIEVABILITY:

Indexed and retrieved by name of controlling individual(s) or assigned identification number.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Records are maintained in electronic media. Certain records are archived in off-line storage. All records are periodically updated to reflect changes and maintained as long as needed and then deleted.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or to gain access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Examination reports and related materials; regulatory filings; and Change in Bank Control Notices filed pursuant to 12 U.S.C. 1817(j).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–009 [Reserved]
30–64–0010

SYSTEM NAME:

Investigative Files of the Office of the Inspector General.

SYSTEM LOCATION:

Office of the Inspector General (''OIG''), FDIC, 550 17th Street, NW., Washington, DC 20429. In addition, records are maintained at OIG field offices. OIG field office locations can be obtained by contacting the Assistant Inspector General for Investigations, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former FDIC employees and individuals involved in or associated with FDIC programs and operations including contractors, subcontractors, vendors and individuals associated with inquiries and investigations, including witnesses, complainants, and suspects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative files, including memoranda, computer-generated background information, correspondence, computerized case management and tracking files, reports of investigations with related exhibits, statements, affidavits, records or other pertinent documents, reports from or to other law enforcement bodies, pertaining to violations or potential violations of criminal laws, fraud, waste, and abuse with respect to administration of FDIC programs and operations, and violations of employee and contractor Standards of Conduct as set forth in section 12(f) of the Federal Deposit Insurance Act (12 U.S.C. 1822(f)) and 5 CFR parts 2634, 2635 and 3201.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); the Inspector General Act of 1978, as amended, (5 U.S.C. App. 3).

PURPOSE(S):

Pursuant to the Inspector General Act, the system is maintained for the purposes of (1) conducting and documenting investigations by the OIG or other investigative agencies regarding FDIC programs and operations in order to determine whether employees or other individuals have been or are engaging in waste, fraud and abuse with respect to the FDIC's programs or operations and reporting the results of investigations to other Federal agencies, other public authorities or professional organizations which have the authority to bring criminal or civil or administrative actions, or to impose other disciplinary sanctions; (2) documenting the outcome of OIG investigations; (3) maintaining a record of the activities which were the subject of investigations; (4) reporting investigative findings to other FDIC components or divisions for their use in operating and evaluating their programs or operations, and in the imposition of civil or administrative sanctions; and (5) acting as a repository and source for information necessary to fulfill the reporting requirements of the Inspector General Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To the appropriate Federal, State, local, foreign or international agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the record, either by itself or in combination with other information, indicates a violation or potential violation of law, or contract, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, alternative dispute resolution mediator or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings when the FDIC or OIG is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(3) To the FDIC's or another Federal agency's legal representative, including the U.S. Department of Justice or other retained counsel, when the FDIC, OIG or any employee thereof is a party to litigation or administrative proceeding or has a significant interest in the litigation or proceeding;

(4) To a grand jury agent pursuant either to a Federal or State grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury;

(5) To the subjects of an investigation and their representatives during the course of an investigation and to any other person or entity that has or may have information relevant or pertinent to the investigation to the extent necessary to assist in the conduct of the investigation;

(6) To third-party sources during the course of an investigation only such information as determined to be necessary and pertinent to the investigation in order to obtain information or assistance relating to an audit, trial, hearing, or any other authorized activity of the OIG;

(7) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the records pertain;

(8) To a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary for the FDIC to obtain information concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit;

(9) To a Federal agency responsible for considering suspension or debarment action where such record is determined to be necessary and relevant;

(10) To a consultant, person or entity who contracts or subcontracts with the FDIC or OIG, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a);

(11) To a governmental, public or professional or self-regulatory licensing organization when such record indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed;

(12) To the U.S. Office of Personnel Management, General Accounting Office, Office of Government Ethics, Merit Systems Protection Board, Office of Special Counsel, Equal Employment Opportunity Commission, Department of Justice, Office of Management and Budget or the Federal Labor Relations Authority of records or portions thereof determined to be relevant and necessary to carrying our their authorized functions, including but not limited to a request made in connection with the hiring or retention of an employee, rendering advice requested by OIG, the issuance of a security clearance, the reporting of an investigation of an employee, the reporting of an investigation of prohibited personnel practices, the letting of a contract or issuance of a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is necessary and relevant to

the requesting agency's decision on the matter;

(13) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt; and

(14) To other Federal Offices of Inspector General for the purpose of conducting quality assessments or peer reviews of the OIG, or its investigative components.

Note: In addition to the foregoing, a record which is contained in this system and derived from another FDIC system of records may be disclosed as a routine use as specified in the published notice of the system of records from which the record is derived.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system, pursuant to subsection (b)(12) of the Privacy Act, to consumer reporting agencies in accordance with 31 U.S.C. 3711(e). (The term ''consumer reporting agency'' is defined by 31 U.S.C. 3701(a)(3) and 15 U.S.C. 1681a(f).) Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name of individual, unique investigation number assigned, referral number, or investigative subject matter.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. File folders are maintained in lockable metal file cabinets and lockable offices accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Electronic media and file folders are retained for ten years and then destroyed by deletion or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or to gain access to records maintained in this system must submit their request in writing to Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

Note: This system contains records that are exempt under 5 U.S.C. 552a (j)(2), (k)(2) and (k)(5). See the section of this notice titled ''Systems exempted from certain provisions of the Act'' below.

RECORDS ACCESS PROCEDURE:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURE:

See ''Notification procedure'' above and the section of this notice titled ''Systems exempted from certain provisions of the act.'' Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Current and former employees of the FDIC, other government employees, private individuals, vendors, contractors, subcontractors, witnesses and informants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system of records, to the extent that it consists of information compiled for the purpose of criminal investigations, has been exempted from the requirements of subsections (c)(3) and (4); (d); (e)(1), (2) and (3); (e)(4)(G) and (H); (e)(5); (e)(8); (f); (g); (h); and (i) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). In addition, this system of records, to the extent that it consists of other investigatory material compiled for law enforcement purposes has been exempted from the requirements of subsections (c)(3); (d); (e)(1); (e)(4)(G) and (H); (f); (g); (h); and (i) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). Finally, this system of records, to the extent that it consists of investigatory material compiled for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or Federal contracts, the release of which would reveal the identity of a source who furnished information to the FDIC on a confidential basis, has been exempted from the requirements of subsection (c)(3) and (d) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(5).

30–64–0011

SYSTEM NAME:

Corporate Recruitment Tracking Records.

SYSTEM LOCATION:

Personnel Services Branch, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing applications for employment with the FDIC in response to advertised position vacancy announcements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Position vacancy announcement information such as position title, series and grade level(s), office and duty location, opening and closing date of the announcement, and dates of referral and return of lists of qualified candidates; applicant personal data such as name, address, social security number, date of birth, sex, veterans' preference and federal competitive status; and applicant qualification and processing information such as qualifications, grade level eligibility, reason for ineligibility, referral status, and dates of notification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); 5 U.S.C. 1104.

PURPOSE(S):

The records are collected and maintained to monitor and track individuals filing employment applications with the FDIC and to assess recruiting goals and objectives.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in this system of records may be disclosed:

(1) To the U.S. Office of Personnel Management, the Merit Systems Protection Board, the Office of Government Ethics, the Office of Special Counsel, the Federal Labor Relations Authority or its General Counsel, the Equal Employment Opportunity Commission, to the extent disclosure is

determined to be relevant and necessary to carry out the government-wide personnel management, investigatory, adjudicatory, and appellate functions within their respective jurisdictions;

(2) To a congressional office in response to a written inquiry made by a congressional office at the request of the individual to whom the record pertains;

(3) To the appropriate Federal, State or local agency or responsible authority, such information that is necessary and pertinent for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto;

(4) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary; and

(5) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media.

RETRIEVABILITY:

Indexed and retrieved by name and social security number of individual applicant.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Network servers are located in a locked room with physical access limited to only authorized personnel.

RETENTION AND DISPOSAL:

Information is maintained for two years and, if no longer needed, deleted.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Information Systems and Services Section, Personnel Service Branch, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or gain access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Information originates from position vacancy announcements, applications for employment submitted by individuals, and applicant qualification and processing system.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0012

SYSTEM NAME:

Financial Information Management Records.

SYSTEM LOCATION:

Division of Finance, FDIC, 550 17th Street, NW., Washington, DC 20429. Records concerning garnishments, attachments, wage assignments and related records concerning FDIC employees are located with the General Counsel, Legal Division, FDIC, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees, current and former vendors and contractors providing goods and/or services to the FDIC, and current and former FDIC customers.

Note: Only records reflecting personal information are subject to the Privacy Act. This system also contains records concerning failed bank receiverships, corporations, other business entities, and organizations whose records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains (a) employee payroll and disbursement-related records; (b) contractor and vendor invoices and other accounts payable records; and (c) customer records related to accounts receivables. The payroll and/or disbursement records include employees' mailing addresses and home addresses; rate and amount of pay; hours worked; leave accrued and leave balances; tax exemption; tax deductions for employee supplemental payments; and Corporate payments for taxes, life insurance, health insurance, and retirement funds. Records relating to employee claims for reimbursement of official travel expenses include travel authorizations, advances, vouchers showing amounts claimed, exceptions taken as a result of audit, advance balances applied, amounts paid, and travel savings awards program payments. Other records maintained on employees include reimbursement claims for relocation expenses consisting of authorizations, advances, vouchers of amounts claimed and amounts paid; reimbursement for educational expenses or professional membership dues and licensing fees; awards and buyout payments; child care and Life Cycle reimbursements; advances or other funds owed to the FDIC; and garnishments, attachments, wage assignments or related records. Records on individuals who are not employees of the FDIC consist of all documents relating to the purchase of goods and/or services from those individuals including contractual documents and amounts paid as well as customer information necessary for the collection of accounts receivable. The records may also include general ledger and detailed trial balances and supporting data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 9 and 10(a) of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1820(a)).

PURPOSE(S):

The records are maintained for the FDIC and the failed bank receiverships managed by the FDIC. The records are used to manage and account for financial transactions of the FDIC. The records and associated databases and subsystems provide a data source for the production of reports and documentation for internal and external management reporting associated with the financial operations of the FDIC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To auditors employed by the General Accounting Office;

(2) To the appropriate Federal, State or local agency or authority responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation or order, when the information indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto;

(3) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(4) To the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, an arbitrator, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary to carry out the government-wide personnel management, investigatory, adjudicate and appellate functions within their respective jurisdictions;

(5) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(6) To Federal, State, and City income tax authorities, including the Internal Revenue Service and the Social Security Administration, and to other recipients, as authorized by the employee, including the United States Treasury Department, savings institutions, insurance carriers, and charity funds;

(7) By the FDIC Office of Inspector General to vendors, carriers, or other appropriate third parties for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations;

(8) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a); and

(9) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system, pursuant to subsection (b)(12) of the Privacy Act, to consumer reporting agencies in accordance with 31 U.S.C. 3711(e). (The term ''consumer reporting agency'' is defined by 31 U.S.C. 3701(a)(3) and 15 U.S.C. 1681a(f).) Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM;

STORAGE:

Records are stored in electronic media and paper format/record cards in individual file folders.

RETRIEVABILITY:

Electronic media are indexed and retrievable by social security number or specialized identifying number; paper format/record cards are indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format/record cards are maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

Financial receipt and payment, trial balance, payroll and employee supplemental payment, and official travel expense and reimbursement records are retained by the FDIC for ten years in electronic format and then transferred to the Federal Records Center or destroyed. Source documents for employee financial records and authorization vouchers are retained for the period of use and up to six additional years, after which they are destroyed. Records on individuals who are employees of the FDIC authorized to approve payment authorization vouchers or regulatory and supervision expenditures are maintained for a period of three years or until the next audit by the General Accounting Office.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Finance, FDIC, 550 17th Street, NW., Washington, DC 20429. For records about FDIC employees concerning garnishments, attachments, wage assignments and related records, the system manager is the General Counsel, Legal Division, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FDIC, FOIA/PA Unit, 550 17th Street, NW., Washington, DC 20429. The request must contain the individual's name, social security number, a notarized statement attesting to their identity, and, to the extent relevant, the duty station, division and approximate dates of employment.

RECORDS ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORDS PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information contained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual upon whom the record is maintained; other government agencies, contractors, documents submitted to or received from another FDIC office maintaining the records in the performance of their duties. Where an employee is subject to a tax lien, a bankruptcy, an attachment, or a wage garnishment, information also is obtained from the appropriate taxing or judicial authority.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0013

SYSTEM NAME:

Insured Bank Liquidation Records.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington, DC 20429; and Field Operations Branch, Division of Resolutions and Receiverships, FDIC,

1910 Pacific Avenue, Dallas, Texas 75201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who were obligors or obligees of FDIC-insured financial institutions for which the FDIC was appointed receiver or liquidator or FDIC-insured financial institutions that were provided open-bank assistance by the FDIC and the FDIC is acting as liquidator, receiver or conservator of certain of the financial institution's assets.

Note: Only records reflecting personal information are subject to the Privacy Act. This system also contains records concerning failed bank receiverships, corporations, other business entities, and organizations whose records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the individual's files held by the closed financial institution or assisted financial institution, which files may include the loan or contractual agreement and related documents and correspondence. It also contains FDIC asset files, including judgments obtained, restitution orders and loan deficiencies arising from the liquidation of the obligor's loan asset(s) and associated collateral, if any; information relating to the obligor's financial condition such as financial statements, income tax returns, asset or collateral verifications or searches, appraisals, and potential sources of repayment. FDIC asset files also include intra- or inter-agency memoranda, notes relating to the liquidation of the loan obligation or asset, correspondence and any other documents related to the liquidation of the loan obligation or asset. FDIC's receivership claims files may include all information related to claims filed with the receivership estate by a failed financial institution's landlords, creditors, service providers or other obligees or claimants.

Note: Records held by the FDIC as receiver are a part of this system only to the extent that the state law governing the receivership is not inconsistent or does not otherwise establish specific requirements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 9, 11, and 13 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, and 1823) and applicable State laws governing the liquidation of assets and wind-up of the affairs of failed financial institutions.

PURPOSE(S):

The records are maintained to: (a) Identify and manage loan obligations and assets acquired from failed FDIC-insured financial institutions for which the FDIC was appointed receiver or liquidator or FDIC-insured financial institutions that were provided open-bank assistance by the FDIC; (b) identify, manage and discharge the obligations to creditors, obligees and other claimants of FDIC-insured financial institutions for which the FDIC was appointed receiver or liquidator or FDIC-insured financial institutions that were provided open-bank assistance by the FDIC; and (c) assist with financial and management reporting. The records support the liquidation and receivership functions of the FDIC required by applicable Federal and State statutes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Information in the system may be disclosed, subject to applicable law:

(1) To prospective purchaser(s) of the individual's obligation(s), including judgments and loan deficiencies, for the purpose of informing the prospective purchaser(s) about the nature and quality of the loan obligation(s) to be purchased;

(2) To contractors or entities performing services for the FDIC in connection with the liquidation of an individual's obligation(s), including judgments and loan deficiencies or in connection with the fulfillment of a claim filed with the FDIC as receiver or liquidator. Third party contractors include, but are not limited to, asset marketing contractors; loan servicers; appraisers; environmental contractors; attorneys retained by the FDIC; collection agencies; and auditing or accounting firms retained to assist in an audit or investigation of FDIC's liquidation activities;

(3) To participants in the loan obligation in order to fulfill any contractual or incidental responsibilities in connection with the loan participation agreement;

(4) To Federal or State agencies or to financial institutions where information is relevant to an application or request by the individual for a loan, grant, financial benefit, or other entitlement;

(5) To Federal or State agencies, such as the Internal Revenue Service or State taxation authorities, in the performance of their governmental duties, such as obtaining information regarding income, including the reporting of income resulting from a compromise or write-off of a loan obligation;

(6) To apprise courts of competent jurisdiction supervising the FDIC's liquidation or receivership functions of information required by statute to be disclosed to the court and necessary to obtain approvals from the court for the disposal of assets and the disposition of claims and other related issues;

(7) To Federal or State bank examiners for the purposes of examining borrowing relationships in operating financial institutions that may be related to an obligation of an individual covered by this system;

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, of only such information that is determined to be relevant and necessary;

(9) To the appropriate Federal, State, or local agency or responsible authority, such information that is necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information by itself or together with other information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(10) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the record pertains; and

(11) To the individual, the individual's counsel or other representatives, insurance carrier(s) or underwriters of bankers' blanket bonds or financial institutions bonds for failed or assisted FDIC-insured financial institutions in conjunction with claims made by the FDIC or litigation instituted by the FDIC or others on behalf of the FDIC against former officers, directors, accountants, lawyers, consultants, appraisers, or underwriters of bankers blanket bonds or financial institutions bonds of a failed or assisted FDIC-insured financial institution.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed by financial institution number, name of failed or

assisted insured institution, and by name of individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records maintained in individual file folders are stored in lockable file cabinets and/or in secured vaults or warehouses and are accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Credit/loan files or files concerning the obligees of the failed or assisted financial institution are maintained until the receivership claim, loan obligation, judgment, loan deficiency or other asset or liability is sold or otherwise disposed of, or for the period of time provided under applicable Federal or State laws pursuant to which the FDIC liquidates the assets, discharges the liabilities or processes the claims. FDIC asset files and information maintained in magnetic media are retained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington, DC 20429; and Deputy Director, Field Operations Branch, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, 550 17th Street, NW., Washington, DC 20429. The request must contain the individual's name, address, a notarized statement attesting to their identity, and the name and address of the failed or assisted institution at which the individual had a loan obligation or otherwise transacted business.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual on whom the record is maintained; appraisers retained by the originating bank or the FDIC; investigative and/or research companies; credit bureaus and/or services; loan servicers; court records; references named by the individual; attorneys or accountants retained by the originating bank or the FDIC; participants in the obligation(s) of the individual; officers and employees of the failed or assisted bank; congressional offices that may initiate an inquiry; and other parties providing services to the FDIC in its capacity as liquidator or receiver.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0015

SYSTEM NAME:

Unofficial Personnel System (to be revised at a later date).

30–64–0016

SYSTEM NAME:

Professional Qualification Records for Municipal Securities Dealers, Municipal Securities Representatives, and U.S. Government Securities Brokers/Dealers.

SYSTEM LOCATION:

Securities, Capital Markets and Trust Branch, Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Persons who are or seek to be associated with municipal securities principals or municipal securities representatives which are FDIC-insured, state-chartered banks (including insured state-licensed branches of foreign banks), not members of the Federal Reserve System, or are subsidiaries, departments, or divisions of such banks; (2) persons who are or seek to be persons associated with U.S. Government securities dealers or brokers which are FDIC-insured state-chartered banks, other than members of the Federal Reserve System, or are departments or divisions of such banks.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain identifying information, detailed educational and employment histories, examination information, disciplinary information, if any, and information concerning the termination of employment of individuals covered by the system. Identifying information includes name, address, date and place of birth, and may include social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 15B(c), 15C, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4, 78o–5, and 78q and 78w); and section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The records are maintained to comply with the registration requirements of municipal securities dealers, municipal securities representatives, and U.S. Government securities brokers or dealers and associated persons contained in the Securities Exchange Act of 1934 and to support the FDIC's regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USE:

Information in the system may be disclosed:

(1) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the courses of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, of only such information that is determined to be relevant and necessary;

(2) To the appropriate Federal, State, local, or foreign agency or authority or to the appropriate self-regulatory organization, as defined in section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. 78c (a)(26)), to the extent disclosure is determined to be necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information by itself or together with additional information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or regulation, rule or order issued pursuant thereto;

(3) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the record pertains;

(4) To assist in any proceeding in which the Federal securities or banking laws are in issue or a proceeding involving the propriety of a disclosure of information contained in this system, in which the FDIC or one of its past or present employees is a party, to the extent that the information is relevant to the proceeding;

(5) To a Federal, State, local, or foreign governmental authority or a self-regulatory organization if necessary in order to obtain information relevant to

an FDIC inquiry concerning a person who is or seeks to be associated with a municipal securities dealer as a municipal securities principal or representative or a U.S. Government securities broker or a U.S. Government securities dealer;

(6) To a Federal, State, local, or foreign governmental authority or a self-regulatory organization in connection with the issuance of a license or other benefit to the extent that the information is relevant and necessary;

(7) To a registered dealer, registered broker, registered municipal securities dealer, U.S. Government securities dealer, U.S. Government securities broker, or an insured bank that is a past or present employer of an individual that is the subject of a record, or to which such individual has applied for employment, for purposes of identity verification or for purposes of investigating the qualifications of the subject individual; and

(8) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Indexed by name, social security number, and dealer registration number or FDIC bank certificate number.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records are stored in file folders in lockable metal file cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Financial Analyst, Securities, Capital Markets and Trust Branch, Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, the date and place of their birth, and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained, municipal securities dealers and U.S. Government securities dealers and brokers (as such dealers are described in ''Categories of individuals covered by the system'' above), and Federal, State, local, and foreign governmental authorities and self-regulatory organizations or agencies which regulate the securities industry.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0017

SYSTEM NAME:

Employee Medical and Health Assessment Records.

SYSTEM LOCATION:

Health Unit, Acquisition and Corporate Services Branch, Division of Administration, FDIC, located at the following addresses: 550 17th Street, NW., Washington, DC 20429, and 3501 North Fairfax Drive, Arlington, Virginia 22226; and Health Units located in FDIC regional offices. (See Appendix A for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former FDIC employees who participate in health screening programs administered by contractor personnel retained by the FDIC and individuals who seek treatment, medical accommodations or information at an FDIC Health Unit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records of the employee, including name, age, height, weight, history of certain medical conditions, health screening records; dates of visits to the FDIC Health Unit, diagnoses, and treatments administered; ergonomic reviews and assessments; and the name and telephone number of the person to contact in the event of a medical emergency involving the employee.

Note: In addition to the FDIC system of records, the United States Office of Personnel Management maintains its own government-wide system of records (known as OPM/GOVT–10).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. § 1819).

PURPOSE(S):

The records are collected and maintained to identify potential health issues and concerns of an individual and to identify and collect information with respect to medical conditions reported by an individual to the FDIC Health Unit and to identify necessary contacts in the event of a medical emergency involving the covered individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Note: The records are disclosed only to a very limited number of FDIC officials, generally only to a medical review or management official to the extent necessary for a determination concerning a medical issue or condition affecting the individual.

Information in the system may be disclosed:

(1) To the appropriate Federal, State or local agency when necessary to adjudicate a claim (filed by or on behalf of the individual) under a retirement, insurance or health benefit program;

(2) To a Federal, State, or local agency to the extent necessary to comply with laws governing reporting of communicable disease;

(3) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings when the FDIC is a party to the proceeding or has a significant interest in the proceeding, and only of such information that is determined to be relevant and necessary and it has been determined that the disclosure is compatible with the purpose for which the records were collected;

(4) To the appropriate Federal, State or local agency or responsible authority, such information that is necessary and pertinent for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the information by itself or together with additional information, indicates a violation or potential violation of civil or criminal law or regulation;

(5) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the record pertains;

(6) To the Merit Systems Protection Board or the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, the U.S. Office of Personnel Management, the Equal Employment Opportunity Commission, arbitrators, hearing examiners and appointed representatives of an individual to the extent necessary to carry out their authorized duties or functions;

(7) To health or life insurance carriers contracting with the FDIC to provide life insurance or to provide health benefits plan, such information necessary to verify eligibility for payment of a claim for life or health benefits;

(8) To a Health Unit contractor, including contract nurses, retained for the purpose of performing any function associated with the operation of the Health Unit; and

(9) To the person designated on the appropriate form as the individual to contact in the event of a medical emergency of the employee.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records are stored in lockable metal file cabinets. Access is limited to authorized employees, authorized employees of the contractor or contract nurses responsible for servicing the records in the performance of their duties.

RETENTION AND DISPOSAL:

Records are kept for the duration of the employee's employment with FDIC. Upon termination of employment, the records are maintained for six years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Health, Safety and Environmental Program Manager, Acquisition and Corporate Services Branch, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their requests in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. All requests must contain the individual's name and identify the office where the individual was employed. Individuals must also provide a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

The records are compiled by the employee and contractor personnel during the course of a visit to the Health Unit for treatment. Records are created also as a result of the individual's participation in a health screening program, or if the individual requests an ergonomic assessment or health or medical accommodation. The employee supplies the information contained in the emergency contact sheet.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0018

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

Personnel Services Branch, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429. Records at the regional level generated through grievance procedures negotiated with recognized labor organizations are located in the FDIC regional office where originated (See Appendix A for a list of the FDIC regional offices and their addresses). For non-headquarters employees, duplicate copies may be maintained by the Personnel Services Branch, Division of Administration, Washington, DC, for the purpose of coordinating grievance and arbitration proceedings.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former FDIC employees who have submitted grievances in accordance with part 771 of the United States Office of Personnel Management's regulations (5 CFR part 771) or a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by FDIC employees under part 771 of the United States Office of Personnel Management's regulations, or under 5 U.S.C. 7121. Case files contain documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the final decision, and related correspondence and exhibits. This system includes files and records of internal grievance procedures that FDIC may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7121; 5 CFR part 771; sec. 9 of the Federal Deposit Insurance Act, 12 U.S.C. 1819.

PURPOSE(S):

The information contained in this system is used to make determinations and document decisions made on filed grievances and settle matters of dissatisfaction or concern of covered individuals. Information from this system may be used for preparing statistical summary or management reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To the appropriate Federal, State, local agency or responsible authority, such information that is necessary and pertinent for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto;

(2) To any source during the course of an investigation only such information as determined to be necessary and pertinent to process a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested;

(3) To a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability

investigation of an individual, the classifying of jobs, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter;

(4) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(5) To the United States Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies (while published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference);

(6) To officials of the Merit Systems Protection Board, the Office of the Special Counsel, the Federal Labor Relations Authority, the Equal Employment Opportunity Commission, the Office of Personnel Management, or an arbitrator, when requested in performance of their authorized duties and functions, but only to the extent that the information disclosed is determined to be necessary and relevant to the requesting agency's decision on the matter;

(7) To a court, magistrate, alternative dispute resolution mediator or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, alternative dispute resolution, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(8) To officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions; and

(9) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper format within individual file folders or electronically.

RETRIEVABILITY:

Records are indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Records in paper format are maintained in lockable metal filing cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

The records are disposed of three years after closing of the case.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Personnel Services Branch, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429. The appropriate FDIC regional director for records maintained in FDIC regional offices (see Appendix A for a list of the FDIC regional offices and their addresses).

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to their records maintained in this system must submit their requests in writing to the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address, and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Information in this system is provided: (1) By the individual on whom the record is maintained; (2) by testimony of witnesses; (3) by agency officials; and (4) from related correspondence from organizations or persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0019

SYSTEM NAME:

Potential Bidders List.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington, DC 20429; and Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have purchased or submitted written notice of an interest in purchasing loans, owned real estate or other assets from the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the individual's name, address, telephone number and electronic mail address, if available; information as to the kind or category and general geographic location of loans or owned real estate that the individual may be interested in purchasing; and information relating to whether any bids have been submitted on prior loan sales.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 9, 11 and 13 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821 and 1823).

PURPOSE(S):

The system collects, identifies and maintains information about potential purchasers of assets (primarily loans and owned real estate) from the FDIC. The information is utilized by the FDIC in the marketing of assets, to identify potential purchasers and to solicit bids for assets. The information in this system is used to support the FDIC's liquidation/receivership functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed, subject to applicable law:

(1) To other Federal or State agencies and to contractors to assist in the marketing and sale of loans and real estate held by the FDIC;

(2) To the appropriate Federal, State or local agency or responsible authority, to the extent that disclosure is necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation or order, when the information indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and

whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto;

(3) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary; and

(4) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format in file folders.

RETRIEVABILITY:

Electronic media and paper format are indexed and retrieved by name of prospective purchaser or unique identification number assigned to the prospective purchaser.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Hard copy printouts are maintained in lockable metal file cabinets or offices.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed. Obsolete records are deleted or destroyed after 15 months.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual about whom the record is maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0020

SYSTEM NAME:

Telephone Call Detail Records.

SYSTEM LOCATION:

Division of Information Resources Management, FDIC, 3501 N. Fairfax Dr., Arlington, VA 22226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals assigned telephone numbers and authorization codes by the FDIC, including current and former FDIC employees and contractor personnel, who make local and long distance telephone calls and individuals who receive telephone calls placed from or charged to FDIC telephones.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records, including telephone number, location, dates and duration of telephone call, relating to use of FDIC telephones to place or receive long distance and local calls; records of any charges billed to FDIC telephones; records indicating assignment of telephone numbers to individuals covered by the system; and the results of administrative inquiries to determine responsibility for the placement of specific local or long distance calls.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The records in this system are maintained to identify and make a record of all telephone calls placed to or from FDIC telephones and enable the FDIC to analyze call detail information for verifying call usage; to determine responsibility for placement of specific long distance calls; and for detecting possible abuse of the FDIC provided long distance telephone network.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(2) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(3) To the appropriate Federal, State, or local agency or responsible authority such information that is necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, or by particular program statute, or by regulation, rule, or order issued pursuant thereto;

(4) To current and former FDIC employees and other individuals currently or formerly provided telephone services by the FDIC to determine their individual responsibility for telephone calls;

(5) To respond to a Federal agency's request made in connection with the hiring or retention of an employee, the letting of a contract or issuance of a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is relevant and necessary to the requesting agency's decision on the matter;

(6) To a telecommunications company providing telecommunications support to permit servicing the account;

(7) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a); and

(8) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information

contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system, pursuant to subsection (b)(12) of the Privacy Act, to consumer reporting agencies in accordance with 31 U.S.C. 3711(e). (The term ''consumer reporting agency'' is defined by 31 U.S.C. 3701(a)(3) and 15 U.S.C. 1681a(f).) Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media.

RETRIEVABILITY:

Records are indexed and retrieved by telephone number and office location.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Records are destroyed after the close of the fiscal year in which they are audited or after three years from the date the record was created, whichever occurs first.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Information Resources Management, 3501 N. Fairfax Dr., Arlington, Virginia 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their requests in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. The request must contain the individual's name, office location, the telephone number assigned to the individual by the FDIC, and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Telephone assignment records; call detail listings; results of administrative inquiries relating to assignment of responsibility for placement of specific long distance and local calls.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0021

SYSTEM NAME:

Fitness Center Records.

SYSTEM LOCATION:

Fitness Center, Acquisition and Corporate Services Branch, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FDIC employees who apply for membership and participate in the Fitness Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

Principally contains the individual's name, gender, age; fitness assessment results; identification of certain medical conditions; and the name and phone number of the individual's personal physician and emergency contact.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The records are collected and maintained to control access to the fitness center; to enable the Fitness Center contractor to identify any potential health issues or concerns and the fitness level of an individual; and to identify necessary contacts in the event of a medical emergency while the individual is participating in a fitness activity.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in the system may be disclosed to:

(1) The individuals listed as emergency contacts or the individual's personal physician, in the event of a medical emergency;

(2) A consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a); and

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS:

STORAGE:

Records are stored in paper format within individual file folders. Information recorded on index cards is stored in a card file box.

RETRIEVABILITY:

Individual file folders and cards are indexed and retrieved by name.

SAFEGUARDS:

Records are maintained in lockable metal file cabinets. Access is limited to authorized employees of the contractor responsible for servicing the records in the performance of their duties.

Note: In the future, all or some portion of the records may be stored in electronic media. These records will be indexed and retrieved by name and will be password protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Active records are retained indefinitely; inactive records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Health, Safety and Environmental Program Manager, Acquisition and Corporate Services Branch, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their requests in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reason for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Information is principally obtained from the individual who has applied for membership and contractor personnel. Some information may be provided by the individual's personal physician.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0022

SYSTEM NAME:

Freedom of Information Act and Privacy Act Request Records.

SYSTEM LOCATION:

Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. In addition, records may be maintained at the division or office level in the FDIC Washington office or at FDIC Regional offices (see Appendix A for a list of the FDIC regional offices and their addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted requests for information pursuant to the Freedom of Information Act; individuals who have submitted requests for records about themselves under the provisions of the Privacy Act of 1974 and individuals filing an administrative appeal of a denial, in whole or part, of any such requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains names and addresses of individuals making written requests for access to information; written requests for amendment of records made pursuant to the Privacy Act; correspondence to or from the requester; correspondence to or from a person writing on the requester's behalf; internal FDIC memoranda; memoranda to or from other Federal agencies having a substantial interest in the determination of the request; responses to requests (including for example acknowledgment letters, fee estimate letters, and final determinations); administrative appeals of denials of access to records; administrative appeals of denials of requests for amendment of records made pursuant to the Privacy Act. These records may contain personal information retrieved in response to a request.

Note: Freedom of Information Act and Privacy Act case records may contain inquiries and requests regarding any of the FDIC's other systems of records subject to the Freedom of Information Act and Privacy Act, and information about individuals from any of these other systems may become part of this system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819(a)); Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C 552a), 12 CFR part 309, and 12 CFR part 310.

PURPOSE(S):

The records maintained in this system are collected to process requests made under the provisions of the Freedom of Information Act and the Privacy Act. The records are also used by the FDIC to prepare reports to the Office of Management and Budget and Congress required by the Freedom of Information Act and the Privacy Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be disclosed:

(1) To another Federal government agency having a substantial interest in the determination of the request or for the purpose of consulting with that agency as to the propriety of access or correction of the record in order to complete the processing of requests;

(2) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(3) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(4) To a third party authorized in writing to receive such information by the individual about whom the information pertains;

(5) To the appropriate federal, state, or local agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, and the information is determined to be relevant and necessary to the investigation and/or prosecution or enforcement action; and

(6) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system, pursuant to subsection (b)(12) of the Privacy Act, to consumer reporting agencies in accordance with 31 U.S.C. 3711(e). (The term ''consumer reporting agency'' is defined by 31 U.S.C. 3701(a)(3) and 15 U.S.C. 1681a(f).) Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format within individual file folders.

RETRIEVABILITY:

Electronic media and paper format records are indexed and retrieved by the requester's name or by unique log number assigned to the request. Records sometimes are retrieved by reference to the name of the requester's firm, if any, or the subject matter of the request.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. File folders are maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

Records for Freedom of Information Act requests which are granted, withdrawn or closed for non-compliance or similar reason, are

destroyed two years after the date of the reply. Records for all other Freedom of Information Act requests (e.g., requests denied in part, requests denied in full, and requests for which no responsive information was located) are destroyed six years after the date of the reply, unless the denial is appealed, in which case the request and related documentation are destroyed six years after the final agency determination or three years after final adjudication by the courts, whichever is later. Documents maintained for control purposes are destroyed six years after the last entry. Documents maintained for processing Privacy Act requests are disposed of in accordance with established disposition schedules for individual records, or five years after the date of the disclosure was made, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Program Attorney, FOIA/PA Unit, Office of the Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORDS ACCESS PROCEDURES:

The FDIC systems of records that are exempt from certain Privacy Act requirements may be included in this system as part of a Freedom of Information Act or Privacy Act case record. Such material retains its exemption if it is included in this system of records (see section of this notice titled, ''Systems Exempted from Certain Provisions of the Act''). Individuals seeking access to their records in this system should direct their request to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429.

CONTESTING RECORD PROCEDURES:

The FDIC systems of records that are exempt from certain Privacy Act requirements may be included in this system as part of a Freedom of Information Act or Privacy Act case record. Such material retains its exemption if it is included in this system of records (see section of this notice titled, ''Systems exempted from certain provisions of the act''). Individuals wishing to contest or amend information maintained in the system should direct their request to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429, stating specifically what information is being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Requesters and persons acting on behalf of requesters, FDIC offices and divisions, other Federal agencies having a substantial interest in the determination of the request, and employees processing the requests.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The FDIC has claimed exemptions for several of its other systems of records under 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5) and 12 CFR 310.13. During the processing of a Freedom of Information Act or Privacy Act request, exempt records from these other systems of records may become part of the case record in this system of records. To the extent that exempt records from other FDIC systems of records are entered or become part of this system, the FDIC has claimed the same exemptions, and any such records compiled in this system of records from any other system of record continue to be subject to any exemption(s) applicable for the records as they have in the primary systems of records of which they are a part.

30–64–0023

SYSTEM NAME:

Affordable Housing Program Records.

SYSTEM LOCATION:

Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Purchasers and prospective purchasers of residential properties offered for sale through the FDIC's Affordable Housing Program.

Note: To be considered a prospective purchaser for purposes of this record system, the individual must have (1) completed and signed an FDIC ''Certification of Income Eligibility'' and (2) delivered the form to an authorized representative of the FDIC's Affordable Housing Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the purchaser's or prospective purchaser's income qualification form and substantiating documents (such as personal financial statements, income tax returns, assets or collateral verifications, appraisals, and sources of income); copies of sales contracts, deeds, or other recorded instruments; intra-agency forms, memoranda, or notes related to the property and purchaser's participation in the FDIC's Affordable Housing Program; correspondence; and other documents related to the FDIC's Affordable Housing Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 9, 11, 13, and 40 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, 1823, 1831q).

PURPOSE(S):

The records are collected and maintained to determine individual eligibility to participate in the FDIC Affordable Housing Program; monitor compliance by individuals with purchaser income restrictions; and to verify that an individual qualifies to participate in the program. The information in the system supports the FDIC's liquidation of qualifying residential housing units and the FDIC goal to provide homeownership for low-income and moderate-income families.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be disclosed, subject to applicable law:

(1) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(2) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(3) To the appropriate Federal, State, or local agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(4) To contractors retained by the FDIC to perform services in connection with the implementation of the FDIC

Affordable Housing Program such as brokers, appraisers, mortgage lenders, nonprofit organizations, counsel, and consultants; and

(5) To mortgage companies, financial institutions, federal agencies (such as the Federal Housing Administration, the Housing and Urban Development Agency, the Farm Service Agency, and the Veterans Administration), or state and local government housing agencies where information is determined to be relevant to an application or request for a loan, grant, financial benefit, or other type of assistance or entitlement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Electronic media and paper format are accessible by name of purchaser or prospective purchaser and by address of the property purchased.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. File folders are maintained in lockable metal file cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

If no longer needed by the FDIC, electronic media and paper format files and information are destroyed six years after termination of the closed bank receivership from which the eligible affordable housing property was acquired.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

NOTIFICATION PROCEDURE:

Individuals who wish to determine if they are named in this system of records or seeking access to records maintained in this system, must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. The request must contain the purchaser's or the prospective purchaser's name, property address, and a notarized statement attesting to their identity.

RECORDS ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual upon whom the record is maintained; information pertaining to an individual may, in some cases, be supplemented with reports from credit bureaus and/or other services.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0024

SYSTEM NAME:

Unclaimed Deposit Account Records.

SYSTEM LOCATION:

Operations Branch, Division of Resolutions and Receiverships, Field Operations Branch, Divisions of Resolutions and Receiverships, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals identified as deposit account owners of unclaimed insured deposits of a closed insured depository institution for which the FDIC was appointed receiver after January 1, 1989.

CATEGORIES OF RECORDS IN THE SYSTEM:

Deposit account records, including signature cards, last known home address, social security number, name of insured depository institution, relating to unclaimed insured deposits or insured transferred deposits from closed insured depository institutions for which the FDIC was appointed receiver after January 1, 1989.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 9, 11, and 12 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, and 1822).

PURPOSE(S):

The information in this system is used to process inquiries and claims of individuals with respect to unclaimed insured deposit accounts of closed insured depository institutions for which the FDIC was appointed receiver after January 1, 1989, and to assist in complying with the requirements of the Unclaimed Deposits Amendments Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in this system of records may be disclosed, subject to applicable law:

(1) To the appropriate State agency accepting custody of unclaimed insured deposits;

(2) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(3) To the appropriate Federal, state or local agency or authority responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; and

(4) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format.

RETRIEVABILITY:

Electronic media and paper format are indexed and retrieved by depository institution name, depositor name, depositor social security number, or deposit account number.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Hard copy printouts are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

If the appropriate State has accepted custody of unclaimed deposits, a record of the unclaimed deposits will be retained by the FDIC during the custody period of ten years. Such records will subsequently be destroyed in accordance with the FDIC's records retention policy in effect at the time of

return of any deposits to the FDIC from the State. If the appropriate State has declined to accept custody of the unclaimed deposits of the closed insured depository institution, the FDIC will retain the unclaimed deposit records and upon termination of the receivership of the closed insured depository institution, the records will be destroyed in accordance with the FDIC's records retention policy.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Operations Branch, Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. The request must contain the individual's name, address, the name and address of the closed depository institution, and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

Same as ''Notification'' above.

CONTESTING RECORD PROCEDURES:

Same as ''Notification'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Information originates from deposit records of closed insured depository institutions. Records of unclaimed transferred deposits are provided to the FDIC from assuming depository institutions to which the FDIC transferred deposits upon closing of the depository institution.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Appendix A

Federal Deposit Insurance Corporation Regional Offices

Atlanta Regional Office, FDIC, One Atlantic Center, 1201 West Peachtree Street, NE., Suite 1600, Atlanta, Georgia 30309–3415
Boston Regional Office, FDIC, 15 Braintree Hill Office Park, Braintree, Massachusetts 02184–8701
Chicago Regional Office, FDIC, 500 West Monroe Street, Suite 3300, Chicago, Illinois 60661
Dallas Regional Office, FDIC, 1910 Pacific Avenue, 20th Floor, Dallas, Texas 75201–4586
Kansas City Regional Office, FDIC, 2345 Grand Boulevard, Suite 1200, Kansas City, Missouri 64108–2638
Memphis Regional Office, FDIC, 5100 Poplar Avenue, Suite 1900, Memphis, Tennessee 38137–5900
New York City Regional Office, FDIC, 20 Exchange Place, Room 6014, New York, New York 10005
San Francisco Regional Office, FDIC, 25 Ecker Street, Suite 2300, San Francisco, California 94105–2780

By direction of the Board of Directors.

Dated at Washington, DC, this 8th day of May, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–12209 Filed 5–15–01; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011764

Title: Zim/Norasia/CSAV Slot Exchange Agreement

Parties: Compania Sud-Americana DeVapores S.A., Norasia Container Lines Limited, Zim Israel Navigation Co., Ltd.

Synopsis: The agreement authorizes Zim and CSAV/Norasia to exchange slots in the trade between the U.S. West Coast and countries bordering the Adriatic Sea, Israel, Egypt, Sri Lanka and the Far East in the Korea/Singapore/South East Asia range, allocations to be proportionate to their vessel allocation. Expedited review is requested.

Agreement No.: 011765

Title: Senator/OOCL-Slot Charter Agreement

Parties: Senator Lines GmbH Orient Overseas Container Line Limited

Synopsis: The proposed agreement would allow Senator Lines to sell 100 TEU (1100 m/tons) per voyage westbound and 150 TEU (1650 m/tons) eastbound to OOCL in the trade between the U.S. East Coast and Korea, the People's Republic of China, Hong Kong and Taiwan. Senator may sell OOCL a maximum of 300 TEU (3300 m/tons) per voyage to both directions.

By Order of the Federal Maritime Commission.

Dated: May 11, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–12370 Filed 5–15–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary Licenses or provisional licenses have been revoked in accordance with the Commission's Order in Docket No. 00–12, Revocation of Licenses, Provisional Licenses and Order to Discontinue Operations in U.S.—Foreign Trades for Failure to Comply with the New Licensing Requirements of the Ocean Shipping Reform Act of 1998 and section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries:

A.I.F. Services, Inc. d/b/a Agency International Forwarding, Inc.
Agency International Forwarding, Inc.
Air & Sea Inc.
Airlift Container Lines, Inc.
Albatross Shipping Inc.
Almcorp Project Transport, Inc.
Alrod International, Inc. d/b/a Alrod Ocean Company
Andreani Corporation
Auto Export Services North America, Inc.
Auto Overseas Ltd.
Blackbird Line, Inc.
Calico Equipment Corp. d/b/a Global Equipment Transport
Cargo Maritime Services, Inc.
Century Express, Inc.
Chin, Johnnie C. F. d/b/a J C Express
Continental Shipping & Trading Import-Export, Inc.
Continental Van Lines, Inc. d/b/a Continental International
Denali International, Inc.
Dukes System Corp.
Excel Shipping Corp.
Exploit Express Freight Inc.
Federal Warehouse Company
Feith, Cornelis J. d/b/a Tiger Express
Formerica Consolidation Service, Inc.
Frontier International Forwarders, Inc.
Hemisphere International Shipping, Inc.
Hopkins, James E. d/b/a Hopkins Services
Inter-American Freight Consolidators, Inc.
International Distribution, Inc.
International Trade and Logistics, Inc.
International Transport Agency d/b/a I.T.A.
Iris Enterprises Corp. d/b/a Iris Cargo
Johnson Storage & Moving Co.
Landstar Ranger, Inc.
Loa Int'l (USA) Transport Co. Inc.
Maurice Pincoffs Company, Inc.
Nador Shipping Corporation

Naviera Mundial Inc.
Ocean Pacific Lines, Inc.
Og International (USA) Co., Inc.
P. H. Petry, Company, Inc.
Poseidon Freight Forwarders, Inc. d/b/a Poseidon Line
Roberto Bucci (USA) Inc.
Rolines Shipping Corp.
S. h. r. Enterprises, Inc.
S. t. s. International, Inc.
Sanchez, Carlos B. d/b/a R & S Trading
Seamax, Inc.
Transbridge International, Inc.
Transneftegazstroy America, Inc.
Treset Corporation
World Marine Services Dominicana, LLC
World Wide Cargo Logistics, Inc.
Yellow Freight System, Inc.

Bryant L. VanBrakle,
Secretary.
[FR Doc. 01–12369 Filed 5–15–01; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 31, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Murphy O'Banion, Leesville, Louisiana; to acquire additional voting shares of Vernon Bancshares, Inc., Leesville, Louisiana, and thereby indirectly acquire additional voting shares of The Vernon Bank, Leesville, Louisiana.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. William Robert Phelps, Fairmont, Minnesota; to retain voting shares of Swea City Bancorporation, Inc., Estherville, Iowa; and thereby indirectly retain voting shares of Bank Plus, Estherville, Iowa.

Board of Governors of the Federal Reserve System, May 11, 2001.
Robert deV. Frierson
Associate Secretary of the Board.
[FR Doc. 01–12377 Filed 5–15–01; 8:45 am]
BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 11, 2001.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. First Union Corporation, Charlotte, North Carolina, to merge with Wachovia Corporation, Winston-Salem, North Carolina, and thereby indirectly acquire voting shares of Wachovia Bank, National Association, Winston-Salem, North Carolina; Wachovia Acquisition Corporation 2001-01, Winston-Salem, North Carolina; Republic Security Bank, West Palm Beach, Florida; and First National Bank of Atlanta, New Castle, Delaware. First Union also requests approval to exercise an option to acquire up to 19.9 percent of the voting shares of Wachovia Corporation under certain circumstances.

In connection with this application, Applicant also has applied to acquire Atlantic Savings Bank, FSB, Hilton Head Island, South Carolina, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, May 11, 2001.
Robert deV. Frierson
Associate Secretary of the Board.
[FR Doc. 01–12376 Filed 5–15–01; 8:45 am]
BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 30, 2001.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Caisse Nationale de Credit Agricole; Paris, France, to retain, indirectly through Banco Espirito Santo, S.A., Lisbon, Portugal, an existing investment in and acquire additional shares of Clarity Incentive Systems, New York, New York, and thereby continue engaging in data processing and management consulting activities pursuant to §§ 225.28(b)(9) and (b)(14) of Regulation Y.

2. Caisse Nationale de Credit Agricole; Paris, France, to retain, indirectly through Banco Espirito Banco Espirito Santo, S.A., Lisbon, Portugal, shares of FiNet.com, Inc., San Ramon, California, and thereby continue engaging in extending credit and activities related to extending credit pursuant to §§ 225.28(b)(1) and (b)(2) of Regulation Y.

Board of Governors of the Federal Reserve System, May 10, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12263 Filed 5–15–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–01–39]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

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. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Patterns of Eye Movement and Message Processing—NEW—The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC). The mission of the National Institute for Occupational Safety and Health is to promote safety and health at work for all people through research and prevention.

NIOSH often develops work-related health and safety messages designed to persuade workers to follow specific work-related habits that reduce the risk of on-the-job injury or disease. Research has shown that the more a reader thinks about a message being read, the more persuasive the message will be in changing the attitude and behavior of the reader. However, assessing how much a reader is actually thinking about a message has been difficult to do in any way beyond simply asking the reader questions about the material. Such self-report methods are limited in that they are imprecise and are vulnerable to measurement error.

The primary purpose of this study by the Institute's Health Effects Laboratory Division, Health Communication Research Branch (HCRB) is to determine if specific patterns of eye movement are related to the amount of thinking a person does while reading persuasive materials. From the eye-tracking literature, certain patterns of eye movement have already been associated with reading conceptually difficult text. It is believed that these identified patterns of eye movement represent more thinking about what is being read. It is predicted that the same patterns of eye-movement found for conceptually difficult text also will be found when participants are reading persuasive materials designed to be more thought provoking, or persuasive. If consistent patterns of eye movement are found to be related to more or less thinking about persuasive materials, then eye-tracking can be further developed as a measure of persuasive message effectiveness. Such a finding would be an improvement over the more commonly employed self-report methods of assessing message effectiveness.

As a secondary consideration, a measure of impulsivity will be included in this study to determine if higher or lower ratings of impulsivity predict if a person will think about a persuasive message. It is predicted that participants higher in impulsivity will be less likely to think as much about a message as participants lower in impulsivity. If this prediction about impulsivity is confirmed in this study, messages could possibly be tailored in ways to improve persuasive effectiveness for readers potentially high in impulsivity. Additionally, a general measure of personality traits also will be administered for the purpose of considering other personality characteristics that may be related to more or less thinking about persuasive materials.

The persuasion theory guiding the first two studies is the Elaboration Likelihood Model (ELM). Each study will involve a manipulation of constructs used in the model, persuasive message relevance (high or low) and argument strength (strong or weak). The high relevance condition is intended to lead to more thinking about the material than the low relevance condition. The strong and weak arguments are a manipulation check to make sure that the high and low relevance manipulation was convincing. Both self-report measures of thinking and measures of eye movement will be obtained from all participants. Analyses will be performed to test the predictions stated above. Analyses also will be performed to determine the relation between impulsivity and personality traits to more or less thinking about the persuasive materials.

The third year will be an application of the results obtained from the first two studies. From the first two studies a template will have been developed that will show how to best design effective occupational safety and health communication materials. This template will be incorporated into other current and future HCRB projects.

The specific goals for this project are as follows: (1) partially replicate an ELM study with the addition of eye movement measures, (2) examine the relation between amount of thinking while reading persuasive materials and eye movement, (3) extend the replicated study and eye movement measure to an occupational safety and health issue, i.e., forklift operation, (4) incorporate the eye movement template into ongoing HCRB projects, and (5) disseminate findings at relevant conferences and in the appropriate professional journals. There are no costs to respondents.

Type of respondents	Number. of respondents	Number. of responses per respondent	Average burden per response (in hours)	Total burden in hours
Morgantown community members	200	1	90/60	300
Forklift operators	200	1	90/60	300
Various occupational groups	400	1	90/60	600
Total	800			1,200

Dated: May 9, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–12372 Filed 5–15–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–30–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Survey of User Satisfaction with National Health Care Survey Data—New—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC). This Survey of User Satisfaction with National Health Care Survey Data is needed to provide current information on the use and usefulness of the variety of data products describing health care delivery systems in the United States. The National Health Care Survey comprises several component surveys: National Hospital Discharge Survey, National Nursing Home Survey, National Home and Hospice Care Survey, National Ambulatory Medical Care Survey, National Hospital Ambulatory Medical Care Survey and occasional other similar surveys when funded, such as the National Health Provider Inventory. Unlike other national surveys conducted by CDC National Center for Health Statistics, the National Health Care surveys address the health care delivery systems rather than the vital statistics, health status, health-related behavior, and access to care experienced by individuals and households who are consumers of the health care delivery systems. Between the years of 1968 and 1984, a number of surveys were conducted to learn more about National Center for Health Statistics (NCHS) data users and to assess the quality of data dissemination activities conducted by NCHS. Studies focusing solely on user satisfaction with National Health Care Survey data products have not been conducted since 1984. We need current specific information on how well our users' needs are being met, how to improve our data products, and how to serve current non-users of our data who are, nonetheless, potential users. Our data products consist mainly of published reports and web-published data sets including Data Highlights and E-Stats. Our published reports include Advance Data Reports, a newsletter-like summary of more detailed analyses to be published later, and Series Reports, which are in-depth analyses of specific topics addressed by our collected data. As the contractor for this project, CHPS Consulting will conduct a multi-mode survey using a web-based survey for those in the sample for whom an email address is available and a mail survey for those without an email address. Current users will be asked questions about what publications they use, how they use them, and their opinion of the timeliness, accessibility, format, and quality of the data publications. Non-users will be asked why they do not use our publications, their current sources of health care provider data, and how we improve data products to meet their needs. Our target population will include the following groups of persons: researchers, educators, health facility administrators, practitioners, and policymakers. Our goal for this survey is to obtain 600 returned surveys with an approximately equal number of returned surveys from users and non-users. The total annualized burden is 75 hours.

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
Users	300	1	10/60
Non-Users	300	1	5/60

Dated: May 9, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–12373 Filed 5–15–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACYF/HS 2001–07A]

Fiscal Year 2000 Discretionary Announcement for Head Start Family Worker Training and Credentialing Initiative; Availability of Funds and Request for Applications

AGENCY: Administration for Children, Youth, and Families, ACF, DHHS.

ACTION: Notice; Correction.

SUMMARY: This document contains a correction to the Notice that was published in the **Federal Register** on Thursday, May 3, 2001, Part II. On page 22294, first column (Item D), the August 1, 2001 closing date for the submission of applications is incorrect. The correct closing time and date for receipt of applications is 5 p.m. EDT on July 2, 2001.

FOR FURTHER INFORMATION CONTACT: The ACYF Operation Center at 1–800–351–2293 for referral to the appropriate contact person in ACYF for programmatic questions or send an e-mail to *hs@icgnet.com*

Dated: May 10, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–12283 Filed 5–15–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N-0050]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Premarket Approval of Medical Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by June 15, 2001.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION:

I. Background

In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Premarket Approval of Medical Devices—21 CFR Part 814 (OMB Control No. 0910–0231)—Extension

Section 515 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360(e)) sets forth the requirements for premarket approval of certain class III medical devices. Class III devices are either preamendments devices that have been classified into class III, postamendments devices that are not substantially equivalent to a preamendments device, or transitional devices. Class III devices are devices such as implants, life sustaining or life supporting devices, or devices which otherwise present a potentially unreasonable risk of illness or injury, or for which are of substantial importance in preventing impairment of human health. Most premarket approval applications (PMAs) are for postamendments class III devices.

Under section 515 of the act, an application must contain several pieces of information including full reports of all information concerning investigations showing whether the device is reasonably safe and effective. The application should also include a statement of components, ingredients, and properties and of the principle or principles of operation of such a device and should also include a full description of the methods used in, and the facilities and controls used for the manufacture and processing of the device; and labeling specimens.

The implementing regulations, contained in part 814 (21 CFR part 814), further specify the contents of a PMA for a class III medical device and the criteria FDA employs in approving, denying, or withdrawing approval of a PMA and supplements to PMAs. The regulation's purpose is to establish an efficient and thorough procedure for FDA's review of PMAs and supplements to PMAs for certain class III (premarket approval) medical devices. The regulations contained in part 814 facilitate the approval of PMAs and supplements to PMAs for devices that have been shown to be reasonably safe and effective and otherwise meet the statutory criteria for approval. The regulations also ensure the disapproval of PMAs and supplements to PMAs for devices that have not been shown to be reasonably safe and effective and that do not otherwise meet the statutory criteria for approval.

The Food and Drug Modernization Act of 1997 (FDAMA) (Public Law 105–115) was enacted on November 21, 1997, to implement revisions to the act by streamlining the process of bringing safe and effective drugs, medical devices, and other therapies to the U.S. market. Several provisions of this act affect the PMA process, such as section 515(d)(6) of the act. This section provided that PMA supplements were required for all device changes that affect safety and effectiveness of a device unless such changes are modifications to manufacturing procedures or method of manufacture. This type of manufacturing change requires a 30-day notice, or where FDA finds such notice inadequate, a 135-day PMA supplement.

To make the PMA process more efficient, FDA has in the past 3 years made changes to the PMA program based on comments received, has complied with changes to the program mandated by FDAMA and has worked towards completion of its PMA reinvention efforts.

Respondents to this information collection are persons filing a PMA application or a PMA supplement with FDA for approval of certain class III medical devices. Part 814 defines a person as any individual, partnership, corporation, association, scientific or academic establishment, government agency or organizational unit, or other legal entity. These respondents include entities meeting the definition of manufacturers such as manufacturers of commercial medical devices in distribution prior to May 28, 1976 (the enactment date of the Medical Device Amendments). Additionally, hospitals that reuse single use devices (SUDs) are

also included in the definition of manufacturers. For the next 3 years, it is expected that FDA will receive four PMA applications from hospitals that remanufacture SUDs. This figure has been included in table 1 of this document as part of the reporting burden in § 814.15.

In the **Federal Register** of February 8, 2001 (66 FR 9582), the agency requested comments on the proposed collection of information. No comments were received.

The total estimated reporting and recordkeeping burden for this information collection is 107,321 hours. FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR section	No. of respondents	Annual rrequency per response	Total annual responses	Hours per response	Total hours
814.15, 814.20, and 814.37	62	1	62	837	51,894
814.39(f)	487	1	487	66	32,142
814.82	43	1	43	66	5,805
814.84	43	1	43	10	430
Section 201 (FDAMA)	10	1	10	10	100
Section 202 (FDAMA)	15	1	15	10	150
Section 205 (FDAMA)	8	1	8	50	400
Section 208 (FDAMA)	26	1	26	30	780
Section 209 (FDAMA)	8	1	8	40	320
Total					92,021

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR section	No. of recordkeepers	Annual frequency per recordkeeping	Total annual records	Hours per recordkeeper	Total hours
814.82(a)(5) and (a)(6)	900	1	900	17	15,300

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The industry-wide burden estimate for PMAs is based on an FDA actual average fiscal year annual rate of receipt of 62 PMA original applications and 487 PMA supplements, using fiscal year 1996 through 2000 data.

The burden data for PMAs is based on data provided by manufacturers by device type and cost element in an earlier study. The specific burden elements for which FDA has data are as follows: (1) Clinical investigations: 67 percent of total burden estimate; (2) submission of additional data or information to FDA during a PMA review: 12 percent; (3) additional device development cost (e.g., testing): 10 percent; and (4) PMA and PMA supplement preparation and submissions, and development of manufacturing and controls data: 11 percent.

II. Paperwork Burden Estimate

The burden estimates were derived by consultation with FDA and industry personnel. FDA's estimates are based on actual data collected from industry over the past 3 years. An evaluation of the type and scope of information requested was also used to derive some time estimates. For example, disclosure information primarily requires time only to update and maintain existing manuals.

A. Reporting/Disclosure

The reporting burden can be broken out by certain sections of the PMA regulation: (1) § 814.15 *Research conducted outside the United States*; (2) § 814.20 *Application*; and (3) § 814.37 *PMA amendments and resubmitted PMA's*.

The majority of the burden—51,894 burden hours—is due to the above three requirements. Included in these three requirements are the conduct of laboratory and clinical trials as well as the analysis, review, and physical preparation of the PMA application. FDA estimates that 62 manufacturers (including hospital remanufacturers of single use devices) will be affected by these requirements based on actual average FDA receipt of new PMA applications in years 1996 through 2000. FDA's estimate of the hours per response (837) was derived through FDA's experience and consultation with industry and trade associations. Included in these three requirements are the conduct of laboratory and clinical trails as well as the analysis, review, and physical preparation of the PMA application. In addition, FDA has based its estimate on the results of an earlier study that these requirements account for the bulk of the burden identified by manufacturers.

1. § 814.39(f)—PMA Supplements: 32,142 Burden Hours

FDA believes that the amendments mandated by FDAMA for § 814.39(f), permitting the submission of the 30-day notices in lieu of regular PMA supplements, will result in an approximate 10 percent reduction in the total number of hours as compared to regular PMA supplements. As a result, FDA estimates that 32,142 hours of burden are needed to complete the requirements for regular PMA supplements.

2. § 814.82—Postapproval requirements: 5,805 Burden Hours

Postapproval requirements concern approved PMAs that were not reclassified and require a periodic report. In the last decade (1991 to 2000), the range of PMAs that fit this category averaged approximately 43 per year (70 percent of the 62 periodic submissions). Most approved PMAs have been subject to some postapproval study requirement. Approximately half of the average submitted PMAs (31) require associated postapproval studies (i.e., followup of patients used in clinical trials to support the PMA or additional preclinical information) that is labor-intensive to compile and complete, and the other PMAs require minimal information. Based on its experience

and on consultation with industry, FDA estimates that preparation of reports and information required by this section require 5,805 hours (135 hours per respondent).

3. § 814.84—Reports: 430 Burden Hours

Postapproval requirements described in § 814.82 (above) require a periodic report. FDA has determined respondents meeting the criteria of § 814.84 will submit reports on a periodic basis. As stated previously, the range of PMAs fitting this category averaged approximately 43 per year. These reports have minimal information requirements. FDA estimates that respondents will construct their report and meet their requirements in approximately 10 hours. This estimate is based on FDA's experience and on consultation with industry. FDA estimates that the periodic reporting required by this section take 430 hours.

The total hours for statutory burden is 1,750. This burden estimate was based on actual real FDA data tracked from January 1, 1998, to the present, and an estimate was derived to forecast future expectations with regard to this statutory data.

B. Recordkeeping

The recordkeeping burden in this section involves the maintenance of records used to trace patients and the organization and indexing of records into identifiable files to ensure the device's continued safety and effectiveness. These records would be required only of those manufacturers who have an approved PMA and who had original clinical research in support of that PMA. For a typical year's submissions, 70 percent of the PMAs are eventually approved and 75 percent of those have original clinical trial data. Therefore, approximately 43 PMAs a year (62 annual submissions times 70 percent) would be subject to these requirements. Also, because the requirements apply to all active PMAs, all holders of active PMA applications must maintain these records. PMAs have been required since 1976, and there are 900 active PMAs that could be subject to these requirements, based on actual FDA data. Each study has approximately 200 subjects, and, at an average of 5 minutes per subject, there is a total burden per study of 1,000 minutes, or 17 hours. The aggregate burden for all 900 holders of approved original PMAs, therefore, is 15,300 hours (900 approved PMAs with clinical data x 17 hours per PMA).

The applicant determines which records should be maintained during product development to document and/or substantiate the device's safety and effectiveness. Records required by the current good manufacturing practices for medical devices regulation (21 CFR part 820) may be relevant to a PMA review and may be submitted as part of an application. In individual instances, records may be required as conditions to approval to ensure the device's continuing safety and effectiveness.

Dated: May 11, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12277 Filed 5–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00E–1412]

Determination of Regulatory Review Period for Purposes of Patent Extension; Uvasorb HA88

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Uvasorb HA88 and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that food additive.

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

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Regulatory Policy Staff (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years as long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For food additives, the testing phase begins when a major health or environmental effects test involving the food additive begins and runs until the approval phase begins. The approval phase starts with the initial submission of a petition requesting the issuance of a regulation for use of the food additive and continues until FDA grants permission to market the food additive product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a food additive will include all of the testing phase and approval phase as specified in 35 U.S.C. section 156(g)(2)(B).

FDA recently approved for marketing the food additive Uvasorb HA88. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Uvasorb HA88 (U.S. Patent No. 4,477,615) from 3V Partecipazioni Industriali S.p.A., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated August 4, 2000, FDA advised the Patent and Trademark Office that this food additive had undergone a regulatory review period and that the approval of Uvasorb HA88 represented the first permitted commercial marketing or use of the product. Subsequently, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Uvasorb HA88 is 3,482 days. Of this time, 684 days occurred during the testing phase of the regulatory review period, and 2,798 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date a major health or environmental effects test (test) involving this food additive additive product was begun*: November 2, 1989. FDA has verified the applicant's claim that the test was begun on November 2, 1989.

2. *The date the petition requesting the issuance of a regulation for use of the additive (petition) was initially*

submitted with respect to the food additive product under section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348): September 16, 1991. FDA has verified the applicant's claim that the petition was initially submitted on September 16, 1991.

3. *The date the petition became effective: May 14, 1999.* FDA has verified the applicant's claim that the regulation for the additive became effective/commercial marketing was permitted on May 14, 1999.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,827 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (address above) written comments and ask for a redetermination by July 16, 2001. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 12, 2001. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 2, 2001.

Jane A Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 01–12228 Filed 5–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0191]

Medical Devices; Global Harmonization Task Force; Study Group 1; Working Draft ''Medical Devices Classification;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft document entitled ''Medical Devices Classification.'' Study Group 1 of the Global Harmonization Task Force (GHTF) has prepared this document on premarket regulation of medical devices. This document is intended to provide information only and represents a harmonized proposal that may be used by governments developing or updating their premarket regulation schemes for medical devices. This draft document is not being issued as an FDA guidance. Elements of the approach set forth in this document may not be consistent with current U.S. regulatory requirements. However, FDA is publishing the draft at this time to give the public an opportunity to comment on the document before the agency resumes discussions with other countries. Public comments will help FDA decide whether and how the agency can adapt these recommendations to our own regulatory requirements.

DATES: Submit written comments concerning this at any time. FDA must submit its comments on this draft to GHTF by July 1, 2001. FDA will consider any comments that it receives after it prepares its comments for GHTF in future discussions with GHTF on this issue.

ADDRESSES: Submit written comments on the document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the document. Submit written requests for single copies on a 3.5″ diskette of the draft document entitled ''Medical Devices Classification'' 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.

FOR FURTHER INFORMATION CONTACT: Kathy M. Poneleit, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–3084.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has participated in a number of activities to promote the international harmonization of regulatory requirements. The GHTF was established in 1992 to facilitate medical device harmonization. Subsequent meetings have been held on a yearly basis in various locations throughout the world. The most recent GHTF meeting was held in September 2000, in Ottawa, Canada. The GHTF is a voluntary consortium of representatives from medical device regulatory authorities and trade associations from around the world, including Canada, Japan, and the European Union.

The objective of the GHTF is to encourage harmonization of regulatory systems for medical devices in order to facilitate trade while recognizing the right of participating members to enforce regulatory requirements considered most suitable to protect the public health of their citizens. One of the ways this objective is achieved is by identifying and developing areas of international cooperation that can reduce differences in systems established to regulate medical devices. In an effort to accomplish these objectives, the GHTF has formed four study groups to draft documents and carry on other activities designed to facilitate global harmonization. This notice is a result of documents that have been developed by Study Group 1.

Study Group 1 was formed in January 1993, and was originally tasked with identifying differences between various premarket regulatory systems. In 1995, the group was asked to propose areas of potential harmonization for premarket device regulations and offer guidance that could help lead to harmonization. As a result of their efforts, this group has developed the document entitled ''Medical Devices Classification.'' This GHTF document suggests some general guidelines for classification of medical devices to encourage harmonization. It recommends that there is a need to classify medical devices based on their risk to patients, users, and other persons; and that there is a benefit for manufacturers and regulatory authorities if a globally harmonized classification system is developed. The

classification framework presumes that the risk presented by a particular device depends on its intended purpose and the effectiveness of the risk management techniques applied during the design, manufacture, and use of that device. The document also suggests that the regulatory controls applied should be proportional to the level of risk associated with a medical device and should increase with the associated degree of risk presented by the medical device. The GHTF document suggests four global classifications of devices.

This document also presents a decision tree logic that may help regulatory authorities develop different parameters that might be used to classify specific devices.

When FDA discusses draft documents with representatives of other countries, we seek public comment on the resulting documents. We believe that it is important to publish draft documents for comment at the same time as other countries so we may review the public comments and resume discussions in a timely manner. Because other countries do not follow our good guidance practices (GGPs), we do not require draft documents that result from international discussions to comply with the format requirements of our GGP regulation. The GGP regulation does require that any final FDA guidance that results from international discussions will comply with the GGP regulation.

II. Electronic Access

In order to receive ''Medical Devices Classification'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1327) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft document 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 Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, 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.

III. Comments

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments regarding this draft guidance. FDA must submit its written comments to the GHTF by July 1, 2001. FDA will consider any comments that it receives in a timely manner, while preparing those comments. FDA will consider any public comments that it receives after preparation of its comments to GHTF in future discussions on this issue. Submit two copies of any comments, except that individuals 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 and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2001.

Linda S. Kahan,

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

[FR Doc. 01–12226 Filed 5–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–10041]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection; *Title of Information Collection:* Long Term Care Awareness Project; *Form No.:* HCFA–10041 (OMB# 0938–NEW); *Use:* HCFA needs to collect data to pilot test a national campaign to educate current and future Medicare beneficiaries and their families about long term health care needs, as requested in the Clinton Fiscal Year 2000 Budget, to design and implement a nationwide campaign. Respondents will be from two groups: 55–70 year-olds and 18–64 years old persons with disability; *Frequency:* Quarterly; *Affected Public:* Individuals or households; *Number of Respondents:* 7,800; *Total Annual Responses:* 3,900; *Total Annual Hours:* 800.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm,* or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Attn. 10041, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 8, 2001.

Julie Brown,

Acting Reports Clearance Officer, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–12342 Filed 5–15–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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: Center for Scientific Review Special Emphasis Panel.

Date: May 10, 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: Jeanne N. Ketley, Ph.D, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (301) 435–1789.

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: May 8, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12260 Filed 5–15–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program (NTP); National Institute of Environmental Health Sciences; NTP Announces the Release of the NTP Final Report From the Endocrine Disruptors Low-Dose Peer Review for Public Comment

Summary

The National Toxicology Program (NTP)/National Institute of Environmental Health Sciences (NIEHS) organized and conducted a scientific peer review at the request of the US Environmental Protection Agency (EPA) to evaluate reported low-dose reproductive and developmental effects and dose-response relationships for endocrine disrupting chemicals. The NTP is soliciting public comment prior to transmitting the final report to the US EPA. Public comments received in response to this solicitation will be included in the final transmittal. The final report is available on the NTP web site at *http://ntp-server.niehs.nih.gov* or by contacting the NTP Office of Liaison and Scientific Review; 919–541–0530 (phone); 919–541–0295 (fax); liaison@starbase.niehs.nih.gov; 111 T.W. Alexander Drive, P.O. Box 12233, MD A3–01, Research Triangle Park, NC 27709.

Background

The NTP final report will be provided to the US EPA to help guide the agency in determining whether or not its guidelines for reproductive and developmental toxicity testing are adequate for endocrine active chemicals. For this meeting, ''low-dose effects'' referred to biological changes that occur in the range of human exposures or at doses lower than those typically used in the US EPA's standard testing paradigm for evaluating reproductive and developmental toxicity.

The peer review included plenary sessions and several subpanel meetings. The peer review panel was divided into five subpanels: Bisphenol A, Other Environmental Estrogens and Estradiol, Androgens and Anti-Androgens, Biological Factors and Study Design, and Statistics and Dose-Response Modeling. The Panel examined data from major, selected studies (excluding studies on phthalates and dioxin and dioxin-like compounds) supporting the presence or absence of low-dose effects in laboratory animals that could be relevant for human health assessments. The Panel was also asked to evaluate the shape of the dose-response curve for endocrine active substances in the low-dose region. Prior to the peer review, members of the Statistics and Dose-Response Modeling Subpanel analyzed the raw data on selected parameters for 38 studies and provided its analyses to the other subpanels. At the peer review, members from this subpanel participated in other subpanels.

Request for Public Comment on the Final Report

Interested parties are encouraged to submit written comments on the NTP Endocrine Disruptors Low-Dose Peer Review Final Report. Comments should include name, affiliation, mailing address, phone, fax, e-mail and sponsoring organization (if any). The NTP invites written public comment on the final report through July 16, 2001. Comments should be submitted to the NTP Office of Liaison and Scientific Review; 919–541–0530 (phone); 919–541–0295 (fax); liaison@starbase.niehs.nih.gov ; 111 T.W. Alexander Drive, P.O. Box 12233, MD A3–01, Research Triangle Park, NC 27709.

Additional Information About the Endocrine Disruptors Low-Dose Peer Review

For additional information about the Endocrine Disruptors Low-Dose Peer Review including the peer review's program, list of participants, literature reference lists, and **Federal Register** notices, visit the NTP web site at: *http://ntp-server.niehs.nih.gov*

Previously three **Federal Register** notices were published about this peer review: January 6, 2000, Volume 65, Number 4, pages 784–787; April 17, 2000, Volume 65, Number 74, pages 20478–20479; September 27, 2000, Volume 65, Number 188, pages 58097–58099.

Dated: May 8, 2001.

Kenneth Olden,

Director, NIEHS, Director, NTP.

[FR Doc. 01–12261 Filed 5–15–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4655–N–13]

Notice of Proposed Information Collection: Comment Request; Hospital—Section 242, Application for Project Mortgage Insurance

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 16, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Building, Room 8202, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Roger Miller, Director, Office of Insured Health Care Facilities, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone number (202) 708–

0599 (this is not a toll-free number), for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1955 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Application for Hospital Project Mortgage Insurance.

OMB Control Number: if applicable: 2502–0518.

Description of the need for the information and proposed use: Information is collected to provide HUD with the data necessary to determine if a hospital qualifies for FHA insurance under Section 242 of the National Housing Act. HUD reviews the information to determine if the proposed project meets basic eligibility criteria, underwriting standards, and adequacy of state and/or local certifications, approvals, and waivers.

Agency form numbers, if applicable: HUD–92013–HOSP.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 15, the frequency of responses is one per respondent, estimated time to finish each response is approximately 750 hours per response, and the total annual burden hours requested are 11,250.

Status of the proposed information collection: Reinstatement with change of a previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: May 4, 2001.

Sean G. Cassidy,

General Deputy—Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 01–12240 Filed 5–15–01; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–36]

Notice of Submission of Proposed Information Collection to OMB; Single Family Property Disposition and Acquisition (Conveyance) of Mortgaged Properties

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 15, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0306) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Single Family Property Disposition and Acquisition (Conveyance) of Mortgaged Properties.

OMB Approval Number: 2502–0306.

Form Numbers: HUD–9516–A, 9519, 9519–A, 9733, 9544, 9548, 9548–A, 9548–B, 9548–C.

Description of the Need for the Information and Its Proposed Use: The collection of information is needed in order to determine the condition of the property upon conveyance, the results of the repair contracts, and to monitor contractor performance in maintaining properties. Also, the sales contracts and addenda will be used in binding contracts between the purchaser and HUD. The respondents are potential contractors, contractors who work for HUD, purchasers of HUD-owned properties, teachers, school districts, nonprofit organizations and governmental entities. This information collection is needed to administer procurement contracts for goods and services for acquired properties and to deal with, complete, rent renovate, modernize, insure, or sell for cash or credit, any properties conveyed to the Department under contracts of mortgage insurance.

Respondents: Individuals or households, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Frequency of Submission: On occasion.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	105,798		10.6		.50		563,765

Total Estimated Burden Hours: 563,765.

Status: Reinstatement, with change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 8, 2001.

Donna L. Eden,

Director, Office of Investment Strategies, Policy and Management.

[FR Doc. 01–12241 Filed 5–15–01; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Exchange of Lands With Federal Interest on South Fox Island, Leelanau County, MI, Between the State of Michigan and a Private Citizen

AGENCY: Fish and Wildlife Service, Interior, lead; National Park Service, Interior, cooperating; Michigan Department of Natural Resources, cooperating.

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS) for the proposed exchange of lands with Federal interest on South Fox Island, Leelanau County, Michigan.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (FWS) intends to gather the information necessary for the preparation of an EIS. The actions to be evaluated by this EIS are: (1) The approval by FWS of the exchange of 313 acres, acquired by the State with Federal Aid in Wildlife Restoration assistance, for lands with equal monetary and wildlife restoration values; (2) the approval by the National Park Service (NPS) for the State to exchange 105 acres with NPS interest for private lands with equal or greater monetary and recreational value; and (3) the related exchange of 220 acres of unencumbered State-owned land for fee title and easements for private lands of equal value. All acreage is approximate. The proposed exchange will consolidate and confine most State ownership to approximately the northern one-third of South Fox Island, Leelanau County, Michigan, about 30 miles west northwest of Charlevoix, in Lake Michigan.

Based upon public comments and agency concerns, the current Proposed Action is a modification of the original proposal as presented in the Environmental Assessment Notice of Intent (65 FR 57367, Sep. 22, 2000) and public scoping meetings. The approximately 115 acre southern tip would feature three areas: (1) The southernmost portion (part of section 21) that includes the lighthouse, associated buildings, and part of the harbor area would remain in public ownership. (2) The unforested, sandy area, approximately bounded by forest on the north and south and the water's edge on the east and west (parts of sections 16 and 21), would be placed in a conservation easement if that portion was transferred to private ownership. The conservation easement would prevent any form of development from occurring within its borders. (3) The northernmost portion of the southern tip is forested and would go into private ownership without any conservation easement. The internet site at: http://midwest.fws.gov/NEPA/ contains a map of the proposed conservation easement and southern tip. The island property containing a cemetery would move into public ownership.

The FWS Regional Director is considering an exchange of lands acquired with Federal Aid in Wildlife Restoration funds under the authority of 50 CFR 80.14 and 43 CFR 12.71. The NPS and General Service's Administration (GSA) are considering the removal of a title reversion clause to allow the disposal of certain lands on South Fox Island and for the placement of a title reversion clause on replacement lands of equal monetary and recreational value. Alternatives could include approval, disapproval, or modification of the State's current proposal of the land exchange. Modifications could include, but are not limited to: changes in the boundaries and acreage of tracts to be exchanged; elimination of more of the NPS tract from the exchange; and deed restrictions on certain lands to be conveyed to the private owner to protect wildlife and historic resources.

This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7 and 1508.22). The intent of the notice is to obtain suggestions and additional information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received on or before June 15, 2001. Scoping meetings are scheduled for June 5, 2001 at Leland High School, 200 N. Grand Avenue, Leland, Michigan 49654 and on June 6, 2001 at Charlevoix High School, 108 E. Garfield, Charlevoix, Michigan 49720. At each location, the meeting will take place from 6:30 to 9 p.m.

Public Involvement

The public is invited to participate in the scoping process, attendance at public meeting, and review of the draft EIS when it is produced. Scoping meetings are scheduled for June 5, 2001 at Leland High School, 200 N. Grand Avenue, Leland, Michigan and on June 6, 2001 at Charlevoix High School, 108 E. Garfield, Charlevoix, Michigan. At each location, the meeting will take place from 6:30 to 9 p.m.. There will be a 30 minute presentation at the beginning of each meeting prior to breaking into groups for comments and questions. Both meetings will be announced in the local news media. Release of the draft EIS for public comment will also be announced in the local news media, as these dates are established. Written scoping comments should be received within 30 days from the date of publication of this Notice of Intent. Public comments that were provided during an Environmental Assessment process on a similar proposal will be utilized in developing alternatives and issues for the draft EIS.

All comments received from individuals become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's NEPA regulations [40 CFR 1506.6(f)]. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If a respondent wishes us to withhold his/her name and/or address, this must be stated prominently at the beginning of the comment.

ADDRESSES: Comments should be addressed to: Mr. Craig Czarnecki, U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Road, Suite 101, East Lansing, MI 48823. Electronic mail comments may also be submitted within the comment period to: *fw3foxisland@fws.gov*

FOR FURTHER INFORMATION CONTACT: For the various agencies, the contacts are: Mr. Craig Czarnecki, U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Road, Suite 101, East Lansing, MI 48823, telephone: (517) 351–8470, facsimile: (517) 351–1443; Mr. Jon Parker, U.S. Fish and Wildlife Service, Division of Federal Aid, Bishop

Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, MN 55111; telephone: (612) 713–5142, facsimile: (612) 713–5290; or Ms. Elyse LaForest, National Park Service, 15 State Street, Boston, MA 02109, telephone: (617) 223–5190, facsimile: (617) 223–5164; Mr. Doug Erickson, Michigan Department of Natural Resources, Wildlife Division, P.O. Box 30444, Lansing, MI 48909–7944; telephone: (517) 335–4316, facsimile: (517)373–6705.

SUPPLEMENTARY INFORMATION: The approximately 115 acre State owned tract with NPS and GSA interest contains the South Fox Island Lighthouse facilities that are either listed or may be eligible to be listed on the National Register of Historic Places and other historical or archeological resources may be present. The National Historic Preservation Act and other laws require these properties and resources be identified and considered in project planning. The public is requested to inform the FWS of concerns about archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns. Under the Proposed Action, the specific lands containing the lighthouse and associated buildings are not intended to be traded out of public ownership.

The NPS tract also includes proposed critical habitat for the federally endangered piping plover. The tract also contains federally threatened Pitcher's thistle, which is also present at other locations on the island. The deed will be subject to a conservation easement, if the portion of the southern tip containing these two federally listed species is traded.

The Grand Traverse Band of Ottawa and Chippewa Indians has unresolved claims to title and other property rights on the island. There is a cemetery on private land, which under the proposed action, would move to public ownership with guaranteed access.

There have been ongoing conflicts over trespass on both public, and private land parcels on the island. The ability of the public to access all land currently in State ownership is an ongoing issue.

The Service estimates that the draft EIS will be made available to the public by late 2001.

Dated: May 3, 2001.

William F. Hartwig,

Regional Director, Region 3, Fort Snelling, MN.

[FR Doc. 01–12335 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Prepare an Environmental Impact Statement for the Weber Dam Repair and Modification Project, Lyon and Mineral Counties, NV

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA), with the cooperation of the Walker River Paiute Indian Tribe (Tribe), intends to gather information necessary for preparing an Environmental Impact Statement (EIS) for the Weber Dam Repair and Modification Project on the Walker River Paiute Reservation, Lyon and Mineral Counties, Nevada. The purpose of the project is to correct unsafe conditions at Weber Dam in order to protect health and welfare needs of the Walker River Paiute and the citizens of the two counties. Details on the project location, proposed action, alternatives, and initial area of environmental concern to be addressed in the EIS are provided in the **SUPPLEMENTARY INFORMATION** section. This notice also announces public meetings on the scope of issues to be addressed in the EIS.

DATES: Comments on the scope and implementation of this proposal must arrive by June 18, 2001. The public scoping meetings will be held on June 5, 2001, from 6 p.m. to 8 p.m., and on June 6, 2001, from 6 p.m. to 8 p.m.

ADDRESSES: You may mail or hand carry written comments to Amy L. Heuslein, Regional Environmental Protection Officer, Western Regional Office, Bureau of Indian Affairs, Environmental Quality Services, P.O. Box 10 (400 N. 5th Street, 14th floor), Phoenix, Arizona, 85001; or to Chuck O'Rourke, Natural Resources Officer, Western Nevada Agency, Bureau of Indian Affairs, 1677 Hot Springs Road, Carson City, Nevada, 89706. (See **SUPPLEMENTARY INFORMATION** for E-mail options.)

The June 5, 2001, public meeting will be held at the Walker River Paiute Tribal Hall, #1 Hospital Road, Schurz, Nevada. The June 6, 2001, public meeting will be held at the Casino West Convention Center, 11 N. Main Street, Yerington, Nevada.

FOR FURTHER INFORMATION CONTACT: Amy Heuslein, (602) 379–6750, or Chuck O'Rourke, (775) 887–3550.

SUPPLEMENTARY INFORMATION: Weber Dam is located on the Walker River, northwest of the town of Schurz, Nevada, and upriver from Walker Lake. Walker Lake is a desert lake located at the terminus of the Walker River, which once supported naturally-reproducing, indigenous, Lahontan cutthroat trout (*Oncorhyncus clarki henshawi*) (LCT). LCT are currently listed as threatened under the Endangered Species Act, 16 U.S.C. 1531–44. The lake fishery is maintained by hatchery production. Weber Dam is one of many structures on the Walker River that prevents LCT from migrating from the lake to a historical habitat in the Walker River basin.

Construction of Weber Dam, which is an earthen structure, began in 1934. It was completed in 1937. The dam serves to store water for irrigation of farmland on the Walker River Paiute Reservation. Because it sits on an earthquake fault and has been leaking for many years, the BIA has determined, under the Indian Dams Safety Act, 25 U.S.C. 3801–04, that Weber Dam is a high hazard dam. This means that if the dam should fail, there is a potential for loss of human life downstream. The BIA has therefore assigned Weber Dam the highest priority for modification due to its unsafe condition.

On September 30, 1991, the Tribe entered into a contract with BIA pursuant to Public Law 93–638, under which the Tribe will carry out the BIA's responsibilities for repair and modification of Weber Dam pursuant to the Indian Dams Safety Act, including the preparation of environmental compliance documents. In this case, after completing an Environmental Assessment in 1994 and Supplemental Assessment in 1998, the BIA, in consultation with the Tribe, determined that an EIS is needed in order to analyze the effects of the proposed project on the human environment. The design and specifications for the repair and modification were provided by the Bureau of Reclamation.

The proposed action to be addressed in the EIS is the repair and modification of Weber Dam, pursuant to the Indian Dams Safety Act. Alternatives to the proposed action include no action, relocating a section of the dam from an existing earthquake fault, renovating the outlet works, reestablishing a wetlands area and removing the impediment to upstream and downstream passage for LCT. The effect of the proposed action on LCT is a primary area of environmental concern to be addressed in the EIS.

Public Comment Solicitation

As an alternative to submitting written comments regarding the content of the EIS to the locations identified in the **ADDRESSES** section, interested

persons may instead comment via the Internet to AmyHeuslein@bia.gov or to ChuckO'Rourke@bia.gov. Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. If you do not receive confirmation from the system that your Internet message was received, contact Amy Heuslein at (602) 379–6750, or Chuck O'Rourke at (775) 887–3550.

Comments, including names and home addresses of respondents, will be available for public review at the mailing addresses shown in the **ADDRESSES** section, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish us to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508), implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

Dated: April 12, 2001.

James H. McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

[FR Doc. 01–12371 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; F–19557]

Alaska Native Claims Selection

Authority: 43 CFR 2650.7(d)

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: Notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to the Heirs, Devisees, and/or Assigns of Evans Egowa for lands in T. 1 S., R. 1 W., Fairbanks Meridian, located in Fairbanks, Alaska. Notice of the decision will also be published four times in the Fairbanks Daily News-Miner.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until June 15, 2001 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Jerri Sansone (907) 271–3231.

Jerri Sansone,

Land Law Examiner.

[FR Doc. 01–12257 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–700–01–1220–AL–1784]

Southwest Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Southwest Resource Advisory Council meeting.

SUMMARY: Notice is hereby given that the Southwest Resource Advisory Council (Southwest RAC) will meet in July, 2001 in Montrose, Colorado.

DATES: The meeting will be held on Thursday, July 12, 2001.

ADDRESSES: For additional information, contact Roger Alexander, Bureau of Land Management, 2465 South Townsend Avenue, Montrose, Colorado 81401; phone 970.240.5335; e-mail roger_alexander@co.blm.gov.

SUPPLEMENTARY INFORMATION: The July 12, 2001 meeting will be held at the Delta-Montrose Electric Association building, 11925 6300 Road, in Montrose, Colorado. The meeting will begin at 9 a.m. and end no later than 4:30 p.m. The agenda will include an update on BLM Colorado's travel management planning process, a presentation on the land health assessment process, and discussions on off-highway vehicle issues and oil and gas issues. General public comment is scheduled for 9:15 a.m.

Summary minutes for Council meetings are maintained at BLM's Western Slope Center office in Montrose and on the internet at www.co.blm.gov/swrac/swrac.htm and are available for public inspection and reproduction within thirty (30) days following each meeting.

Dated: May 7, 2001.

Roger Alexander,

Public Affairs Specialist.

[FR Doc. 01–12258 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–1610–DU]

Notice of Availability, Public Meeting, and Protest Period for the Proposed Bureau of Land Management and U.S. Navy Natural Resource Management Plan for Federal Lands in Churchill County, NV

AGENCIES: Department of the Interior, Bureau of Land Management, Carson City Field Office in partnership with the Department of Defense, U.S. Naval Air Station Fallon, Nevada.

ACTION: Notice of availability, public meeting, and protest period for a proposed amendment to the Lahontan Resource Management Plan (RMPA) for the Bureau of Land Management, Carson City Field Office (BLM) based on specific direction within Public Law 106–65, section 3014 (Military Lands Withdrawal Act of 1999). In addition, as a personnel and cost-saving stratagem, the RMPA was prepared jointly with the Naval Air Station Fallon (Navy) to comply with Department of Defense requirements for an Integrated Natural Resource Management Plan (INRMP) in accordance with the Sikes Act Amendment Act (1997), Public Law 105–85.

SUMMARY: The BLM and Navy determined that combining the two agencies' planning processes is the appropriate means to serve as the analysis and basis for decisions on lands

identified in the Military Lands Withdrawal Act of 1999 (Act), for withdrawn public lands, Navy-owned lands, and the NAS Fallon Main Station. Public scoping was initiated with a Notice of Intent published in the **Federal Register** on May 26, 2000 and two public open houses were held in Fallon and Reno, Nevada in June 2000. The following resource-related issues were identified in the Act and through public scoping: Off Highway Vehicle (OHV) use; public access (hunting, ranching, mining, etc.); livestock grazing; sage grouse habitat preservation; Pony Express Trail protection; wildfire prevention and suppression; noxious weeds; cultural resources; water resources and water rights; and sensitive species.

DATES: The document is available for public and agency review and a public open house is scheduled in accordance with 43 CFR 1610.2 and 2310.3–1 to discuss the proposed RMPA/draft INRMP. Personnel from the BLM and Navy will be available to answer questions and take comments at the following public open house: June 6, 2001 (5–7 p.m.), Fallon Convention Center, 100 Campus Way, Fallon, Nevada. Comments will be accepted until June 15, 2001. After the review and protest period ends for the Proposed Natural Resource Management Plan for Federal Lands in Churchill County, comments will be analyzed and considered jointly by the BLM and Navy in preparing the final document.

ADDRESSES: Comments should be sent to: Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701, Attn: Gary Ryan, Project Manager. Comments may also be sent via electronic mail to the following address: *ryang@nsawc.navy.mil* or via fax: (775) 885–6147.

Comments, including names and addresses of respondents, will be available for public review at the above address during regular business hours (7:30 a.m.–5 p.m.), Monday through Friday, except holidays, and may be published as part of the document. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. However, we will not consider anonymous comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Gary Ryan, BLM Military Liaison at (775) 426–4011, or Ester Hutchison, NAS Fallon Environmental Office at (775) 426–2912.

Dated: May 2, 2001.

John Singlaub,

Manager, Carson City Field Office.

[FR Doc. 01–11874 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–950–1420–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

The plats of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10 a.m., April 23, 2001.

The plat representing the dependent resurvey of a portion of the subdivisional lines, portions of Mineral Surveys 85, 92, 96, 157 and 264, and Mineral Surveys 117, 146, 147, 150, 152, and 441, T. 16 N., R. 80 W., Sixth Principal Meridian, Wyoming, Group No. 493, was accepted April 23, 2001.

The plat representing the dependent resurvey of a portion of the Fourteenth Guide Meridian West, through Township 30 North, between Ranges 112 and 113 West, and a portion of the subdivisional lines, and the subdivision of section 18, T. 30 N., R. 112 W., Sixth Principal Meridian, Wyoming, Group No. 658, was accepted April 23, 2001.

The plat representing the dependent resurvey of portions of the Twelfth Standard Parallel North, through Range 102 West, Tract 38, and portions of the subdivisional lines, and the subdivision of sections 4 and 5, T. 48 N., R. 102 W., Sixth Principal Meridian, Wyoming, Group No. 666, was accepted April 23, 2001.

Dated: April 23, 2001.

John P. Lee,

Chief, Cadastral Survey Group.

[FR Doc. 01–12273 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–950–1420–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plat of survey of the following described land is scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 44 N., R. 118 W., Metes and Bounds Survey of Tract 39, accepted April 23, 2001

This plat will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest this survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest within thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

If protests against this survey are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s).

FOR FURTHER INFORMATION CONTACT: John P. Lee, (307) 775–6216, Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: April 23, 2001.

John P. Lee,

Chief, Cadastral Survey Group.

[FR Doc. 01–12274 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF JUSTICE

Office for Victims of Crime

[OJP(OVC)–1319]

Victims of Crime Act Victim Compensation Grant Program

AGENCY: Office for Victims of Crime, Office of Justice Programs, Justice.

ACTION: Final program guidelines.

SUMMARY: The Office for Victims of Crime (OVC), United States Department of Justice (DOJ) is publishing Final Guidelines to implement the crime victim compensation grant program as authorized by the Victims of Crime Act of 1984, as amended, 42 U.S.C. 10601, et seq., hereafter referred to as VOCA.

EFFECTIVE DATE: These Final Guidelines are effective upon publication in the **Federal Register** or until reissuance by OVC.

FOR FURTHER INFORMATION CONTACT: Carol R. Watkins, Director, State Compensation and Assistance Division, Office for Victims of Crime 810 Seventh Street, NW., Washington, DC 20531; phone: (202) 514–4696. (This is not a toll-free number). E-mail:watkinsc@ojp.usdoj.gov

SUPPLEMENTARY INFORMATION: The Victims of Crime Act (VOCA) authorizes federal financial assistance to states for the purposes of compensating and assisting crime victims, funding training and technical assistance, and serving victims of federal crimes. These Final Guidelines provide information specifically for the administration and implementation of the VOCA crime victim compensation grant program as authorized in section 1403 of VOCA, Public Law 98–473, as amended, codified at 42 U.S.C. 10602.

Summary of the Revisions to the Final Guidelines for the Victims of Crime Act Crime Victim Compensation Grant Program

These Final Guidelines for the VOCA Crime Victim Compensation Grant Program are in accordance with VOCA and are all inclusive. Thus, these Final Guidelines supersede any VOCA Crime Victim Compensation Grant Program Guidelines previously issued by OVC. The changes contained in these Final Guidelines result from developments in the criminal justice and victim services fields since the 1997 Guidelines were issued.

OVC published in the **Federal Register** Proposed VOCA Crime Victim Compensation Program Guidelines that were distributed to interested individuals and organizations for the purpose of soliciting comments. Copies were mailed to all state VOCA victim compensation and assistance program administrators, to executive directors of national victim organizations, and to VOCA victim assistance subgrantee programs. OVC received 16 responses from state VOCA victim compensation administrators and the National Association of Crime Victim Compensation Boards; representatives of other victim services organizations, law enforcement, and U.S. Attorneys Offices; one local organization representing senior citizens; and one national association representing financial planners.

I. Comments From the Field

A. Nonviolent Crimes

VOCA administrators questioned the statutory authority to include nonviolent crimes and the related victim expenses under VOCA crime victim compensation funding. As a result, the Final Guidelines have been clarified to explain that VOCA does not prohibit coverage of nonviolent crimes and that states choosing to cover these crimes may include amounts paid to these victims in their certified payout figures, which are used to determine the amount of federal funding the state is entitled to receive. Compensable expenses could include crisis counseling, mental health treatment, financial counseling, and other services funded by a state's program. The Final Guidelines have also been clarified to explain that amounts paid by states to victims for property, damaged or lost in violent or nonviolent crimes, except in certain instances, cannot be included in a state's certified payout figures. The Final Guidelines emphasize that priority under VOCA continues to be coverage for victims of violent crime.

B. Encouragement From OVC To Expand Coverage

Two respondents questioned OVC's encouragement to expand coverage of certain crimes, expenses, and victims within the Guidelines, stating that the Guidelines establish policy, and that encouragements are better addressed through other means. OVC has removed the encouragements from the body of the Final Guidelines and has explained its identification of emerging trends and unmet needs of crime victims in a preamble. This information is provided for states to consider as they examine their programs' responsiveness to crime victims and strive to improve the range of assistance provided. The Final Guidelines state that these are not mandates and emphasize that it is within the discretion of the state to determine coverage under its compensation statute, rule, or other established policy. The Final Guidelines also clarify that state funds paid to crime victims for these purposes may be included in a state's annual certification of payments to victims.

C. Victims Experiencing Financial Loss as a Result of Crime

Five respondents expressed support for inclusion of economic crime as a compensable crime category that states may include in their annual certification of payments. Others acknowledged that while victims of economic crime have needs, priority must remain with meeting the needs of victims of violent crime. As a result, economic crime is addressed in the preamble to the Final Guidelines and the body of the Final Guidelines emphasize that priority under VOCA is given to victims of violent crime.

Respondents sought clarification on use of the term financial planning in the proposed Guidelines. Since the term conflicts with a term used by professional financial planners who assist with investments, insurance, and estate planning, the term used in the Final Guidelines has been changed to *financial counseling*.

The purpose of financial counseling services is to assist victims who have to restructure their financial affairs because of a crime. These claimants may be survivors of homicide victims or victims of domestic violence, fraud, or other crimes. Allowable activities provided by financial counselors include but are not limited to: Analysis of a victim's financial situation such as income producing capacity and crime-related financial obligations; assistance with restructuring budget and debt; assistance in accessing insurance, public assistance, and other benefits; assistance in completing financial impact statements for criminal or civil courts; and assistance in settling estates and handling guardianship concerns.

D. Victim Cooperation With Law Enforcement

One respondent commented that requiring a victim who is a vulnerable adult to report a crime to law enforcement is unrealistic. As a result, these Final Guidelines allow a state to accept, as an indication of a victim's cooperation with law enforcement, a crime report to law enforcement or to a child or adult protective services agency from a mandated reporter or other person knowledgeable about a crime against a child or a vulnerable adult.

A crime victim's willingness to cooperate with law enforcement may be affected by compelling health or safety concerns including apprehension about personal safety, fear of retaliation, and intimidation by the offender or others. Crime victims may be reluctant to cooperate fully with law enforcement after receiving threats of violence or death against themselves and their families from the offender.

Many barriers—age, psychological, cultural, and linguistic—may affect the victim's ability to cooperate with law enforcement. There may be unique barriers deterring a young child or senior citizen from complying fully with law enforcement. Embarrassment, shame, and the psychological trauma may delay the reporting of sexual assault. Cultural and language differences may diminish a victim's access to and understanding of the criminal justice system. In setting the standard for victim cooperation with law enforcement, OVC encourages state programs to determine how to address these considerations.

E. Crime Scene Cleanup

VOCA administrators requested clarification on what could be covered under crime scene cleanup. Since state statute, rules, and policy dictate allowable expenses for this service, the Final Guidelines have been clarified to say that states may not include property replacement or repair cost, except for replacement of locks and windows, and replacement of bedding and clothing held as evidence, in their annual certification of payments.

F. Nonsupplantation

One respondent asked OVC to clarify if the use of federal funds that a state receives as a result of the expenditure of state revenues constitutes supplantation. As a result, clarifying language has been added stating that use of federal funds received as a result of its certified state payouts is not supplantation.

II. Legislative Changes

A. Child Abuse Prevention and Enforcement Act

This Act amended VOCA to allow for an increase in funds set aside for child abuse victims from $10 million up to $20 million. This occurs in any fiscal year in which Crime Victim Fund deposits are greater than the amount deposited in Fiscal Year 1998. An amount equal to 50 percent of the increase plus the base amount of $10 million is available for this purpose. This applies regardless of whether there is a cap on the amount of money made available from the Fund for VOCA purposes.

B. Consolidated Appropriations Acts of Fiscal Year 1997 and 2000

The VOCA distribution formula was amended to provide funds for victim assistance provided through the Federal Criminal Justice System.

C. Victims of Trafficking and Violence Protection Act of 2000

Provides: 1. Aid for victims of terrorism and expanded OVC's authority to respond to incidents of terrorism outside the United States and of terrorism and mass violence occurring within the United States; 2. authorization for the OVC Director to increase money set aside for the Antiterrorism and Emergency Fund to $100 million and to deposit deobligated dollars from other funded program areas into this Fund; 3. an expanded list of eligible applicants for Antiterrorism and Emergency Funds for incidents of terrorism outside the U.S. to include, not only states and United States Attorneys Offices, but also victim service organizations, and public agencies (including Federal, State, or local governments), and non-governmental organizations that provide assistance to victims of crime for provision of emergency relief including crisis response efforts, assistance, training and technical assistance and on-going assistance including during any investigation and prosecution [42 U.S.C. 10603b(a)]; 4. an expanded range of support provided to victims of terrorism and mass violence beyond emergency relief to include crisis response efforts, assistance, training and technical assistance and on-going assistance; 5. for the establishment of a program to compensate victims of acts of international terrorism that occur outside the United States for associated expenses.

OVC will publish separate guidelines entitled *Antiterrorism and Emergency Fund Guidelines for Terrorism and Mass Violence Crimes* and for the International Crime Victim Compensation Program.

In addition, the Act establishes policy for international trafficking in persons and provides access to services and accommodation in immigration status for victims of severe forms of trafficking, regardless of their immigration status. It also establishes a new, non-immigrant visa classification for certain victims of severe forms of trafficking.

III. Final Program Guidelines for VOCA Crime Victim Compensation Grant Program

The Office for Victims of Crime (OVC), U.S. Department of Justice (DOJ) is publishing these Final Guidelines for the VOCA Crime Victim Compensation Grant Program (hereinafter referred to as Final Guidelines) to implement the victim compensation grant program as authorized by the Victims of Crime Act (VOCA) of 1984, as amended, 42 U.S.C. 10601, *et seq.* These Final Guidelines are in accordance with VOCA and supersede any Guidelines previously issued by OVC.

A. Preamble

OVC has administered the VOCA crime victim compensation program for fourteen years, funded hundreds of discretionary grants, hosted many focus groups with experts from various fields that serve crime victims, and responded to issues and concerns of hundreds of crime victims. Through these contacts, OVC has identified a number of emerging trends and unmet needs. OVC's partnership with states to meet the needs of all crime victims has, in some cases, resulted in statutory and policy changes. While no specific amendments have been made to VOCA to address many of these emerging issues and needs, OVC shares this information with states for consideration as they examine their programs' responsiveness to crime victims and strive to improve the range of assistance provided.

OVC has identified emerging issues and unmet needs for the following four groups of victims and crimes and acknowledges that many states already compensate crime victims in some or most of these categories.

1. Crimes Involving Threat But Not Physical Injury. Many crimes involve threat but the victims suffer no physical injury. For example, a stalking victim may be intimidated and harassed over the Internet but not physically attacked by the stalker and a robbery victim may be threatened with a weapon but not physically injured. Another example would be incidents such as school and workplace shootings in which many people are in danger but not all are physically injured or killed. In property related hate crimes, windows may be broken and graffiti painted on a home, with the intent to intimidate and cause fear in a person or family. In all of these instances, persons may be seriously traumatized by a crime but not be physically injured. States are encouraged to consider the safety and mental health needs of these victims.

2. Witnesses to Violence. The primary group considered under this category is children who witness domestic violence. In addition, in mass violence incidents, others impacted by the violence may be considered victims. States are encouraged to consider the mental health and other needs of these victims.

3. Economic Crime. Increasing attention is being directed by law enforcement officials to economic crime. While anyone can be a victim of financial fraud, often criminals target elders specifically. In addition, identity theft can damage or destroy the financial integrity of many unsuspecting adults. Economic crime can have a devastating impact on victims emotionally, physically, and financially. States are encouraged to consider the needs of these victims.

4. State Residents Who Are Victims of Crime Outside U.S. Jurisdiction. As required by VOCA, all states provide benefits under their crime victim compensation programs for victims of terrorism occurring outside the United States. Because state residents function in a global society, OVC encourages coverage of residents who are victims of crimes other than terrorism that occur when they are outside the territorial jurisdiction of the U.S. This would allow coverage to residents who are studying, conducting business, touring, and living abroad. It would also cover victims of crimes occurring on international waters.

Again, OVC's purpose in identifying the above emerging trends and unmet needs of crime victims is to challenge states to assess the comprehensiveness of their crime victim compensation programs and to provide needed background information for those states desiring to expand the scope of crimes and benefits provided to people victimized by crime. The identification of these issues does not constitute a mandate or requirement of states beyond the statutory requirements outlined in VOCA.

These VOCA Final Guidelines are outlined as follows:

I. Definitions
II. Background
III. Funding Allocations
IV. State Eligibility Criteria
V. State Certification
VI. Application Process and Performance Reporting
VII. Administrative Costs
VIII. Financial Requirements
IX. Monitoring
X. Suspension and Termination of Funding

I. Definitions

For purposes of these Final Guidelines, the following terms are defined:

A. Driving While Intoxicated. This includes drunk driving and driving under the influence of alcohol and/or other drugs. Specific definitions may be provided by state statutes, written rules, or other established policies.

B. Federal Crime. A federal crime is any crime that is a violation of the United States Criminal Code or violation of the Code of Military Justice. In general, federal crimes are investigated by federal law enforcement agencies, including the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), Bureau of Alcohol, Tobacco and Firearms (BATF), U.S. Postal Service (USPS), Department of Interior (DOI), U.S. Secret Service (USSS), U.S. Customs Service (USCS), and Immigration and Naturalization Service (INS). Federal crimes are prosecuted in Federal District Courts by U.S. Attorneys and the U.S. Department of Justice Criminal Division. Examples of Federal crimes include, but are not limited to:

1. Crimes against Federal officials
2. Crimes that take place on Federal property, including national parks and military bases, certain maritime and territorial jurisdictions, and buildings owned or leased by the Federal Government
3. Bank robberies where the bank is insured or otherwise secured by the Federal Government
4. Crimes affecting interstate activities, such as kidnaping, interstate domestic violence, and fraud via U.S. mail, telephone, or wire
5. Crimes occurring in Indian Country or on reservations, where the Federal Government has criminal jurisdiction
6. Trafficking of persons

C. Federal Program, or a federally financed State or local program is a program that provides third party reimbursement for victim expenses and includes such funding sources as Medicaid, Medicare, and CHAMPUS or provides direct Federal appropriations for organizations that provide direct services such as Indian Health Service and the Veterans' Administration.

D. Mass Violence occurring within or outside the United States. The term mass violence is not defined in VOCA or in any statute amending VOCA nor is it defined in the U.S. Criminal Code. Thus, OVC has developed a working definition of this term. The term mass violence means an intentional violent criminal act, for which a formal investigation has been opened by the Federal Bureau of Investigation or other law enforcement agency, that results in physical, emotional or psychological injury to a sufficiently large number of people as to significantly increase the burden of victim assistance and compensation for the responding jurisdiction. If there is a discrepancy between the definition provided in these Final Guidelines and the *Antiterrorism and Emergency Fund Guidelines for Terrorism and Mass Violence Crimes,* the definition in the Antiterrorism and Emergency Fund Guidelines takes precedence.

E. Mental Health Counseling and Care. Mental health counseling and care mean the assessment, diagnosis, and treatment of an individual's mental and emotional functioning. Mental health counseling and care must be provided by a person who meets state standards to provide these services.

F. Property Damage and Loss. Property damage is damage to material goods. Property loss is destruction of material goods or loss of money, stocks, bonds, etc. Property damage does not include damage to prosthetic devices, eyeglasses, other corrective lenses, dental devices, or other medically related devices.

G. Restitution. Restitution is payment made by the offender to the victim who was injured in the crime, to the legal guardian of a vulnerable adult or child victim, or to beneficiaries of the victim of homicide. Restitution does not refer to the general collection of fines, fees, and other penalties from offenders that provide basic revenue for a compensation program and are not attributable to reimbursement of payouts on a specific claim.

H. State. The term *state* includes the 50 states, the District of Columbia, the U.S. Virgin Islands, Guam, Puerto Rico and any other possession or territory of the United States.

I. Terrorism occurring within the United States. The term terrorism means an activity that... (1) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State; and (2) appears to be intended ... (a) to intimidate or coerce a civilian population, (b) to influence the policy of a government by intimidation or coercion, or (c) to affect the conduct of a government by assassination or kidnaping (18 U.S.C. 3077).

J. Terrorism Occurring Outside the United States. The *Antiterrorism and Emergency Reserve Fund Guidelines for Terrorism and Mass Violence Crimes*

refers to the term terrorism, when occurring outside the United States, as international terrorism to mean an activity that... (1) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; (2) appears to be intended ... (a) to intimidate or coerce a civilian population; (b) to influence the policy of a government by intimidation or coercion; or (c) to affect the conduct of a government by assassination or kidnaping; and (3) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum (18 U.S.C. 2331).

II. Background

In 1984, VOCA established the Crime Victims Fund (hereinafter referred to as the Fund) in the U.S. Treasury to receive deposits from fines, penalties, and bond forfeitures levied on criminals convicted of federal crimes. The Fund is administered by OVC to support the activities authorized by VOCA.

OVC makes annual VOCA crime victim compensation grants from the Fund to eligible states and territories. The primary purpose of these grants is to supplement state efforts to provide financial assistance and reimbursement to crime victims throughout the Nation for costs associated with crime, and to encourage victim cooperation and participation in the criminal justice system.

With the exception of most property damage and loss as explained in these Final Guidelines, state crime victim compensation programs may use VOCA compensation grant funds to pay for eligible expenses allowed by state compensation statute, rule, or other established policy.

III. Funding Allocations

A. Distribution. By statute, deposits are to be allocated as follows:

1. Child Abuse Prevention and Treatment Grants. Up to $20 million [1] of the first amounts deposited in the Fund are allocated to Child Abuse Prevention and Treatment Grants. Of these funds, 85 percent are forwarded to the Department of Health and Human Services. The remaining 15 percent is retained by OVC to assist Native American Indian tribes in developing, establishing and operating child abuse programs.

2. Federal Criminal Justice System. Specific amounts are earmarked by Congress annually for improving services for the benefit of crime victims in the Federal criminal justice system.

3. Remaining Fund Deposits. The remaining fund deposits are distributed as follows:

a. Victim Compensation Grants. Forty-eight and one half percent (48.5%) is available to eligible state programs for crime victim compensation.

b. Victim Assistance Grants. Forty-eight and one half percent (48.5%) is available to states for victim assistance grants. Unused funds from the victim compensation portion of the deposits are added to this amount.

c. Discretionary Grants. Three percent (3%) is available to OVC for demonstration projects, training and technical assistance grants, and financial support for services to victims of federal crime.

d. Antiterrorism and Emergency Fund. If monies in the Fund are sufficient to fully provide VOCA grants to the states, and deposits total 110 percent of the previous fiscal year, or if any funds are deobligated, the OVC director may retain up to $100 million in an emergency fund. These funds are to be used (1) for Victims of terrorism within and outside the United States and for victims of other mass violence crimes; (2) for supplementing State Compensation and Assistance Programs' basic state compensation and assistance awards at the discretion of the OVC Director; and (3) to pay benefits under the newly authorized international compensation program.

B. Grant Period. Victim compensation grant funds are available for expenditure throughout the fiscal year (FY) of the award plus the next three fiscal years. The federal fiscal year (FFY) begins on October 1 and ends on September 30. State crime victim compensation programs may pay compensation claims retroactively to October 1, even though the VOCA grant may not be awarded until later in the fiscal year.

C. VOCA Victim Compensation Grant Formula. The Director of OVC is required to make an annual grant to eligible crime victim compensation programs that is equal to 40 percent of the amount awarded by the state program to victims of crime from state revenues during the fiscal year preceding the year of deposits in the Fund (two years prior to the grant year). If the amount in the Fund is insufficient to award each state 40 percent of its prior year's compensation payout from state revenues, all states will be awarded the same reduced percentage of their prior year payout from the available funds.

To determine the amount available, each state must submit with its annual application a certification of the amount expended by the crime victim compensation program in the previous federal fiscal year. See Section V. for additional information.

IV. State Eligibility Criteria

A. Grantee. The grantee must be an operational state-administered crime victim compensation program. A new compensation program is entitled to a VOCA grant after it has awarded benefits that can be matched under VOCA. VOCA may not be used as start-up funds for a new state compensation program. In the event that a state chooses to administer its compensation program in a decentralized fashion, the state remains accountable to VOCA for expenditure of these funds.

B. Program Requirements. For a state to meet or maintain eligibility for a VOCA crime victim compensation grant, it must satisfy the following requirements:

1. Compensable Crimes.

(a) VOCA Mandated Crimes. At a minimum, VOCA specifically requires the grantee to offer compensation to crime victims and survivors of victims of criminal violence for certain identified expenses (see below) resulting from physical injury from a compensable crime as defined by the state. VOCA requires that states include as compensable crimes those crimes whose victims suffer death or physical injury as a result of terrorism, driving while intoxicated, and domestic violence.

In addition, VOCA requires that states include as compensable crimes those crimes whose victims suffer death or personal injury as a result of the intentional or attempted defacement, damage, or destruction of any religious real property because of (1) its religious character or the obstruction, by force or threat of force, of any person's enjoyment of the free exercise of religious beliefs when the crime is covered by interstate or foreign commerce; (2) the race, color, or ethnic characteristics of any individual associated with the religious property.

(b) Coverage of Other Crimes. VOCA places priority on violent crime, but it does not prohibit coverage of nonviolent

[1] In any fiscal year in which Fund deposits are greater than the amount deposited in fiscal year 1998, an amount equal to 50 percent of the increase in the amount from fiscal year 1998 shall be available for Child Abuse Prevention and Treatment Grants in addition to the base amount of $10 million. The total amount allocated for Child Abuse Prevention and Treatment grants for any fiscal year cannot exceed $20 million.

crime. States may choose to broaden the range of compensable crimes to include those involving threats of injury or economic crime where victims are traumatized but not physically injured. In doing so, they may include payments to victims for compensable expenses for these crimes on the state's certification of funds expended for the compensation program.

2. Compensable Expenses.

(a) VOCA Mandated Expenses. At a minimum, VOCA requires states to award compensation for the following expenses when they are attributable to a physical injury resulting from a compensable crime:

i. Medical Expenses. This may include eyeglasses and other corrective lenses, dental services, prosthetic or other devices, and other services rendered in accordance with a method of healing recognized by state law.

ii. Mental health counseling and care.

iii. Lost wages.

iv. Funeral expenses attributable to a death resulting from a compensable crime.

(b) Other Allowable Expenses. State grantees may offer compensation for other types of expenses *as authorized by state statute, rule, or other established policy.*

(i) Property Damage and Loss. Amounts awarded for property damage and loss cannot be included in the amount certified as a basis for the award of VOCA compensation grants except as listed under Section IV.B.2(b)(ii)4&5 of these Final Guidelines.

(ii) In addition to VOCA mandated expenses, other allowable expenses may be included in the certified payout amount such as:

1. Travel and transport for survivors of homicide victims to secure bodies of deceased victims from another country or state.

2. Temporary lodging.

3. Necessary building modification and equipment to accommodate physical disabilities resulting from a compensable crime.

4. Replacement costs for clothing and bedding held as evidence.

5. Replacement or repair of windows and locks.

6. Crime scene cleanup, as defined by state statute, rule or other established policy. Crime scene cleanup does not include replacement of lost or damaged property, except for locks and windows, and for clothing and bedding held as evidence.

7. Attorneys' fees related to a victim's claim for compensation, for establishing guardianship, settling estates, and other activities related to the crime.

8. Payments related to forensic sexual assault examinations (1) If such payments are made from funds administered by the compensation programs and are allowable under state statute, rule, or other established policy; and (2) to the extent that other funding sources such as state appropriations specifically earmarked for these exams are unavailable or insufficient.

9. Dependent care to allow victims to participate in criminal justice activities or secure medical treatment and rehabilitation services.

10. Financial counseling services for victims of economic crime, domestic violence, survivors of homicide victims, and other victims faced with financial difficulty as a result of a crime. Allowable activities provided to crime victims by financial counselors include but are not limited to: analysis of a victim's financial situation such as income producing capacity and crime related financial obligations; assistance with restructuring budget and debt; assistance in accessing insurance, public assistance and other benefits; assistance in completing financial impact statements for criminal courts; and assistance in settling estates and handling guardianship concerns. Financial counseling must be provided by a person who meets state standards for provision of this service.

11. Pain and suffering.

12. Annuities for loss of support for children of victims of homicide.

3. Victim Cooperation With Law Enforcement. Crime victim compensation programs must promote victim cooperation with the reasonable requests of law enforcement authorities. State crime victim compensation programs maintain the authority and discretion to establish their own standards for victim cooperation with the reasonable requests of law enforcement.

VOCA's cooperation with the reasonable requests of law enforcement requirement may be fulfilled by using the following criteria or by any other criteria the state believes is necessary and acceptable to encourage and document victim cooperation with law enforcement. For example, a state may:

a. Require a victim to report the crime to a law enforcement agency;

b. Require a victim to report the crime to an appropriate government agency, such as child and/or adult protective services, family court, or juvenile court;

c. In the case of a child or a vulnerable adult, accept a crime report to law enforcement or to a child or adult protective services agency from a mandated reporter or other person knowledgeable about the crime;

d. Accept proof of the completion of a medical evidentiary examination, such as medical reports, x-rays, medical photographs, and other clinical assessments as evidence of cooperation with law enforcement.

4. Nonsupplantation. The state must certify that grants received under VOCA will not be used to supplant state funds otherwise available to provide crime victim compensation benefits or to administer the state crime victim compensation program. States may not decrease their financial commitment to crime victim compensation solely because they are receiving VOCA funds for the same purpose. Expenditure of VOCA funds received based on state certified payouts from previous years does not constitute supplantation.

5. Compensation for Residents Victimized Outside Their Own State. A state must provide compensation to state residents who are victims of crimes occurring outside the state if the crimes would be compensable crimes had they occurred inside that state and the crimes (1) occurred in a state without an eligible VOCA crime victim compensation program, or (2) in cases of terrorism, occurred outside the territorial jurisdiction of the United States. The state must make these awards according to the same criteria used to make awards to those who are victimized while in the state.

6. Compensation for Nonresidents of a State. The state, in making awards for compensable crimes occurring within the state, must make compensation awards to nonresidents of the state on the basis of the same criteria used to make awards to victims who are residents of the state.

7. Victims of Federal Crime. The state must provide compensation to victims of federal crimes occurring within the state on the same basis that the program provides compensation to victims of state crimes.

8. Unjust Enrichment. States cannot deny compensation to a victim based on the victim's familial relationship to the offender or because the victim shares a residence with the offender. States must adopt a rule or other written policy to avoid unjust enrichment of the offender, but it cannot have the effect of denying compensation to a substantial percentage of victims of violence perpetrated by family members or others with whom the victim shares a residence. In developing a rule, or other written policy, states are encouraged to consider the following:

a. The legal responsibilities of the offender to the victim under the laws of the state and collateral resources available from the offenders to the victim. For example, legal responsibilities of the offender may

include court-ordered restitution or family support under the domestic, marital property or child support laws of the state. Collateral resources may include insurance or pension benefits available to the offender to cover the costs incurred by the victim as a result of the crime. Victims of family violence must not be penalized when collateral sources of payment are not viable. Examples of such situations include when the offender refuses to, or cannot, pay restitution or other civil judgments within a reasonable period of time or when the offender impedes direct or third party (i.e., insurance) payments.

b. Payments to victims of family violence that only minimally or inconsequentially benefit offenders. These payments are not considered unjust enrichment. For example, denial of medical or dental expenses solely because the offender has legal responsibility for the charges, but is unwilling or unable to pay them, could result in the victim not receiving treatment. When indicated, the state has the option of seeking reimbursement from the offender.

c. Consultation with social services and other concerned government entities, and with private organizations that support and advocate on behalf of victims of violence perpetrated by family members.

d. The special needs of child witnesses to violence and child victims of criminal violence, especially when the perpetrator is a parent who may or may not live in the same residence.

9. Discrimination Prohibited. No person shall on the grounds of race, color, religion, national origin, disability, or sex, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under VOCA. States must comply with these VOCA nondiscrimination requirements, the Federal civil rights statutes and regulations cited in the Assurances that accompany the grant award document, and all other applicable civil rights requirements. States with decentralized operations must assure that all operations comply with these requirements.

10. Additional Information Requested by the OVC Director. The state must provide other information and assurances as the Director of OVC may reasonably require.

C. VOCA Funds and Collateral Federal Programs

1. Means Testing. Federal, state, or local government programs that use federal funds are prohibited from including victim compensation benefits when determining income eligibility for an applicant, until the total amount of medical or other assistance that the applicant receives from all programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime. VOCA requires this policy when an applicant needs medical or other assistance, in full or in part, because of the commission of a crime against the applicant. VOCA gives the OVC Director authority to determine whether such medical or other assistance is necessary to an applicant for victim compensation because of the commission of a crime against the applicant. Through these Final Guidelines, the Director's authority is delegated to state VOCA crime victim compensation administrators.

2. Payor of Last Resort. The compensation program is the payor of last resort with regard to federal or federally financed programs. When a victim is eligible to receive benefits from a federal program such as Veterans' benefits, Medicare, and Social Security Disability or federally financed state or local program, such as Medicaid the state compensation program shall not use VOCA funds to pay costs that another federal or federally financed program covers. The federal or federally financed program must make payments without regard to benefits awarded to a crime victim by a state crime victim compensation program.

To facilitate victim access to other funding resources, OVC recommends that VOCA compensation administrators coordinate their activities and provide appropriate referrals to other programs that provide financial assistance and services to crime victims, whether funded by federal, state or local governments. Examples of such programs include worker's compensation, vocational rehabilitation, and VOCA victim assistance subgrantee programs. Outreach to other programs can result in mutual understanding of eligibility requirements, application processing, time lines, and other program specific requirements. As payor of last resort, it is in the compensation program's discretion to make exception for victim needs that are not adequately met by collateral sources. Additionally, this provision does not mandate that states require victims to apply for or use other federally funded programs prior to accessing the crime victim compensation program.

V. State Certifications

State grantees must provide information about crime victim compensation claim payouts including all available funding sources, deductions, and recovery costs on a certification form provided by OVC. The Office of Budget and Management Services, Office of Justice Programs, uses this information to calculate allocations for VOCA eligible crime victim compensation programs.

A. Program Revenue. States must report on the certification form all sources of revenue to the crime victims compensation programs during the federal fiscal year. In some instances, funds are made available to the crime victim compensation programs from other departments or agencies, from supplemental appropriations, donations, or unspent funds carried over from prior years. The amount of certified revenue, excluding VOCA funds, but including all other sources, including carried over funds, must meet or exceed the amount of certified payments to crime victims.

B. Program Expenditures. The total amount to be certified by the state program must include only those amounts paid from state funding sources that are allowable under Section IV.B.1&2 to, or on behalf of, crime victims during the federal fiscal year (October 1 to September 30).

C. Amounts to be Excluded. Compensation for property damage or loss except for items found in Section IV.B.2.(b)ii.4&5 of these Final Guidelines; audit costs; personnel costs; costs related to the collection of offender fines, fees, penalties, and other revenues that provide basic program funding; and, any other program administrative costs.

D. Deductions. Deductions are receipts or refunds that offset or reduce expense items that are allocable to a particular crime victim compensation claim. These include funds received through a state's subrogation interest in a claimant's civil law suit recovery, restitution, refunds, or other reimbursements. For purposes of applicable credits, the term *restitution* means payment made by the offender to the victim who was injured in the crime, to the legal guardian of a vulnerable adult or child, or to beneficiaries of the victim of homicide.

Restitution does not refer to the costs of general collection of fines, fees and other penalties from offenders that provides the basic revenue for the compensation program and are not attributable to reimbursement of payouts on a specific claim. Refunds include amounts from overpayment, erroneous payments made to claimants, and uncashed checks. Additional guidance regarding applicable credits

can be found in *OMB Circular A–87, Cost Principles for State and Local Governments.*

F. Recovery Costs. Salary and benefits costs for personnel directly involved in recovery efforts may be offset against the amount of income received from such reimbursement. Recovery efforts are those activities that are directly attributable to obtaining restitution, refunds, and other reimbursements for the expenses of specific crime victims who have received compensation from the state program. Expenses shall be limited to the percentage of those salaries and benefits incurred by the state for individual employees whose primary responsibilities (not less than 75 percent of each individual employee's work time) are directly and specifically related to recovering restitution and other reimbursements on behalf of compensated victims. Additional allowable recovery costs are garnishment fees, service of legal documents, costs of legal publication, and subpoena fees related to collecting reimbursements. Recovery costs cannot be claimed for employees whose salary and benefits are derived from federal administrative grant funds. Recovery costs do not include the collection of fines, fees, and other penalties that provide the basic revenue for the compensation program and are not identifiable to reimbursement of payouts on a specific victim claim.

G. Sources of Payments to Crime Victims. There is no financial requirement that state compensation programs identify the source of individual payments to crime victims as either federal or state dollars, nor are there any requirements that restitution recoveries or other refunds be tracked to federal or state dollars paid out to the victim.

H. Incorrect Certifications. If it is determined that a state has made an incorrect certification of payments of crime victims compensation from state funding sources and a VOCA crime victim compensation grant is awarded in error, one of the following two courses of action will be taken:

1. Overcertification. In the event that an overcertification comes to the attention of OVC or the Office of the Comptroller, OJP, the necessary steps will be taken to recover funds that were awarded in error. OVC does not have the authority to permit states to keep amounts they were not entitled to as a result of overcertification. Generally, it is the policy of OVC to reduce the amount of the subsequent year VOCA victim compensation award by the amount of the overpayment.

2. Undercertification. If a state undercertifies amounts paid to crime victims, OVC and the Office of the Comptroller, OJP, will not supplement payments to the state to correct the state's error since this would require recalculating allocations to every state VOCA compensation and assistance program and cause disruption in administration of these programs.

VI. Application Process and Performance Reporting

A. Application for Federal Assistance. Each year, OVC issues to each eligible state an application package that contains the necessary forms and detailed information required to apply for VOCA crime victim compensation grant funds. The amount for which each state may apply is included with the application package. States shall use the Standard Form 424, *Application for Federal Assistance,* and its attachments to apply for VOCA victim compensation grant funds. Applications for VOCA crime victim compensation grants may only be submitted by the state agency designated by the governor to administer the VOCA victim compensation program and grant.

Completed applications must be submitted on or before the stated deadline, as determined by OVC. If an eligible state fails to apply for its crime victim compensation allocation by the prescribed deadline, OVC will redistribute federal VOCA crime victim compensation dollars to the VOCA victim assistance grant program, after all states have received the statutorily prescribed percentage of their prior years' payout.

B. Annual Performance Report. States receiving VOCA crime victim compensation grant funds must submit an annual OVC Performance Report. The Performance Report is due January 15 of each year for the preceding federal fiscal year.

VII. Administrative Costs

A. Administrative Costs Allowance. VOCA allows states to use up to 5 percent of crime victim compensation grant funds for administering the crime victim compensation grant program. Any portion of the allowable 5 percent that is not used for administrative purposes must be used for awards of compensation to crime victims.

The intent of this provision is to support and advance program administration in all operational areas including claims processing, staff development and training, public outreach, and program funding by supporting activities that will improve program effectiveness and service to crime victims. If a state elects to use up to 5 percent of the VOCA compensation grant for administrative purposes, only those costs directly associated with administering the program, enhancing overall program operations, and ensuring compliance with federal requirements can be expended with administrative grant funds. State grantees are not required to match the portion of the grant that is used for administrative purposes. The state administrative agency may charge a federally approved indirect cost rate to this grant, but this cost is capped by the limits of these 5 percent administrative funds.

States must certify that VOCA funds used for administrative purposes will not supplant state or local funds but increase the amount of funds available for administering the compensation program. For the purpose of establishing a baseline level of effort, states must maintain documentation on the overall administrative commitment of the state prior to their use of VOCA administrative grant funds. State grantees will not be in violation of the nonsupplantation clause if there is a decrease in the state's previous financial commitment toward the administration of the VOCA grant programs in the following situations: (1) if serious loss of revenue occurs at the state level, resulting in across-the-board budget restrictions, and (2) if there is a decrease in the number of state-supported staff positions used to meet the state's effort in administering the VOCA grant programs. State grantees using administrative funds must notify OVC if there is a decrease in the amount of its previous state financial commitment to the cost of administering the VOCA program.

Only staff activities directly related to compensation functions can be funded with VOCA administrative funds. Similarly, any equipment purchases or other expenditures charged to the VOCA administrative funds can be charged only in proportion to the percentage of time used by the compensation program.

B. Allowable Costs. Allowable administrative costs include but are not limited to, the following:

1. Salaries and benefits for staff and consultant fees to administer and manage the financial and programmatic aspects of the crime victim compensation program. Staff supported by administrative funds under the VOCA crime victim compensation grant must work directly for the compensation program in the same proportion as their level of support from VOCA grant funds. If the staff performs

other functions unrelated to the provision of compensation to crime victims, the proportion of time spent working on the compensation program must be documented using some reasonable method of valuation at regular measurable intervals, e.g., time and attendance records. The documentation must provide a clear audit trail for the expenditure of grant funds.

Temporary or periodic personnel support, such as qualified peer reviewers for medical and mental health claims, and data processing support services are also allowable. These services may be obtained through means deemed acceptable by state administrative procedures.

2. Training and technical assistance includes attendance at training and technical assistance meetings and conferences that address issues relevant to state administration of victim compensation programs. Allowable costs may include travel, registration fees, and other such expenses.

3. Monitoring compliance with federal and state requirements.

4. Automation, including the study, design, and implementation of claims processing and other relevant systems; purchase and maintenance of equipment for the state grantee, including computers, software, FAX machines, copying machines, and TTYs; and services required to support the use of technology to enhance services to crime victims.

5. Training to victim services providers, criminal justice personnel, and health, mental health and social services providers about the crime victim compensation program.

6. Memberships in crime victim organizations and victim-related informational materials.

7. Prorated program audit costs for the crime victim compensation program.

8. Indirect costs at a federally approved rate that, when applied, does not exceed the 5 percent administrative cost allowance.

9. Participation in improving coordination efforts on behalf of crime victims with other federal, state, and local agencies and organizations. This includes development of protocols, policies, and procedures that promote coordination of victim compensation with other financial and victim service programs that improve responses to crime victims. Such participation includes the development and coordination of criminal crisis response teams.

10. Informational materials including development of applications, brochures, posters, training manuals and other relevant publications that describe the compensation application process, eligibility criteria, and the range of benefits available for crime victims. This includes related printing costs.

11. Development of strategic and financial plans, conduct of surveys, and needs assessments, survey of victim satisfaction with the program, and employment of geographic information systems (GIS) technology for planning.

12. Toll-free telephone numbers, Internet access to claim information, and other such program enhancements.

C. Requirements to Notify OVC of Use of Administrative Funds. State grantees that elect to use administrative funds under the VOCA compensation grant are required to include with their annual application, notification of their intent to use administrative funds, the percentage of funds, and the purposes for which they will be used. Grantees will be expected to include in their annual performance report, documentation of actual use of administrative funds.

D. Confidentiality of Research Information. Except as otherwise provided by federal law, no officer or employee of the Federal Government or recipient of monies under VOCA shall use or reveal any research or statistical information gathered under this program by any person, and identifiable to any specific private person, for any purpose other than the purpose for which such information was obtained, in accordance with VOCA. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding.

This provision is intended, among other things, to assure confidentiality of information provided by crime victims to employees of VOCA-funded victim compensation programs. However, there is nothing in VOCA or its legislative history to indicate that Congress intended to override or repeal, in effect, a state's existing law governing the disclosure of information, which is supportive of VOCA's fundamental goal of helping crime victims. For example, this provision would not act to override or repeal, in effect, a state's existing law pertaining to the mandatory reporting of a suspected child abuse. See Pennhurst State School and Hospital vs. Halderman, et al., 451 U.S. 1 (1981).

VIII. Financial Requirements

As a condition of receiving a grant, states must agree to ensure adherence to the general and specific requirements of the *OJP Financial Guide* (effective edition) and all applicable OMB Circulars and Common Rules. This includes the maintenance of books and records in accordance with generally accepted government accounting principles. For copies of the *OJP Financial Guide,* call or write the OJP Office of the Comptroller, 810 7th Street NW., Washington, DC 20531, Customer Service Center 1/800–458–0786; or visit the website at: www.ojp.usdoj.gov/FinGuide/

IX. Monitoring

A. Office of the Comptroller/General Accounting Office/Office of the Inspector General. The U.S. Department of Justice, Office of Justice Programs, Office of the Comptroller; the General Accounting Office; and the U.S. Department of Justice, Office of the Inspector General, conduct periodic reviews of the financial policies and procedures and records of VOCA state grantees. Therefore, upon request, states must provide authorized representatives with access to examine all records, books, papers, case files, or other documents related to the expenditure of funds received under this grant.

B. Office for Victims of Crime. OVC conducts onsite monitoring in accordance with its monitoring plan. While on the site, OVC personnel review various documents and files including (1) Program manuals; (2) procedures; (3) program reports; (4) claimant application, eligibility requirements, and determination and appeal process; (5) a random sampling of victim compensation claim files; and (6) other applicable state records and files. Grantees are notified in writing of their compliance with requirements of VOCA.

X. Suspension and Termination of Funding

If, after reasonable notice to the grantee, OVC finds that a state has failed to comply substantially with the following: VOCA, the state's application for funding, the *OJP Financial Guide* (effective edition), the Final VOCA Crime Victim Compensation Grant Program Guidelines, or any implementing regulation or federal requirements, the OVC Director may suspend or terminate funding to the state and/or take other appropriate action. Under the procedures of 28 CFR part 18, states may request a hearing on the record on the justification for the suspension and/or termination of VOCA funds.

Dated: May 10, 2001.

Kathryn M. Turman,

Director, Office for Victims of Crime.

[FR Doc. 01–12256 Filed 5–15–01; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Institute of Museum and Library Services, Office of Research and Technology

Submission for OMB Review, Comment Request; Museum School Partnership Research

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Notice.

SUMMARY: The Institute of Museum Services has submitted the following public information request to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). Currently, the Institute of Museum and Library Services is soliciting comments concerning a new collection entitled, Museum School Partnership Research. A copy of the proposed instrument, with applicable supporting documentation, may be obtained by calling the Institute of Museum and Library Services, Director, Office of Research and Technology, Rebecca Danvers (202) 606–2478. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–8636.

Comments should be sent to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316, by June 15, 2001.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

BACKGROUND:

Type of Review: New.

Agency: Institute of Museum and Library Services.

Title: Museum School Partnership Research.

OMB Number: N/A.

Affected Public: Museums.

Total Respondents: 1,500.

Frequency: Once.

Total Responses: 1,500.

Average Time per Response: 90 minutes.

Estimated Total Burden Hours: 2,250 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

FOR FURTHER INFORMATION CONTACT: Mamie Bittner, Director, Public and Legislative Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

Dated: May 10, 2001.

Mamie Bittner,

Director, Public and Legislative Affairs.

[FR Doc. 01–12262 Filed 5–15–01; 8:45 am]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–390, 50–327, 50–328, 50–269, 50–260, 50–296; License Nos. NPF–90, DPR–77, DPR–79, DPR–33, DPR–52, DPR–68 EA 99–234]

Tennessee Valley Authority, Watts Bar Nuclear Plant, Unit 1, Sequoyah Nuclear Plant, Units 1 & 2, Browns Ferry Nuclear Plant, Units 1, 2 & 3; Order Imposing Civil Monetary Penalty

I

Tennessee Valley Authority (Licensee) is the holder of Operating License Nos. NPF–90, DPR–77, DPR–79, DPR–33, DPR–52, DPR–68, issued by the Nuclear Regulatory Commission (NRC or Commission) on February 7, 1996, September 17, 1980, September 15, 1981, December 20, 1973, August 2, 1974, and July 2, 1976. The licenses authorize the Licensee to operate Watts Bar Nuclear Plant, Unit 1, Sequoyah Nuclear Plant, Units 1 and 2, and Browns Ferry Nuclear Plant, Units 1, 2, and 3, in accordance with the conditions specified therein.

II

An investigation of the Licensee's activities was completed on August 4, 1999. The results of this investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated February 7, 2000. The Notice states the nature of the violation, the provision of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in letters dated January 22, 2001, and March 9, 2001. In its response, the Licensee denied the violation and protested the proposed imposition of a civil penalty.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined that the violation occurred as stated and that the penalty proposed for the violation designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The Licensee pay a civil penalty in the amount of $110,000 within 30 days of the date of this Order, in accordance with NUREG/BR–0254. In addition, at the time of making the payment, the Licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a ''Request for an Enforcement Hearing'' and shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory

Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region II, 61 Forsyth Street, SW., Suite 23T85, Atlanta, Georgia 30303–8931.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the Licensee was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above, and

(b) Whether, on the basis of such violation, this Order should be sustained.

Dated at Rockville, Maryland, this 4th day of May 2001.

For the Nuclear Regulatory Commission.

William F. Kane,

Deputy Executive Director for Regulatory Programs.

[FR Doc. 01–12340 Filed 5–15–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Louisiana License Nos. LA–0577–L01; LA–7112–L01; LA–10207–L01]

Request for Exemption From 10 CFR 34.20, Performance Requirements for Industrial Radiography Equipment; Environmental Assessment, Finding of No Significant Impact, and Notice of Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission is considering authorizing Global X-ray & Testing Corporation, Bayou Testing Services Inc, Accurate NDE & Inspection L.L.C., and others an exemption to use pipeliner style radiography devices on lay barges in the Gulf of Mexico.

Environmental Assessment

Identification of the Proposed Action

Global X-ray & Testing Corporation, Morgan City, Louisiana; Bayou Testing Services, Inc, Amelia, Louisiana; Accurate NDE & Inspection L.L.C., Opelousas, Louisiana, (the applicants) are licensed by the State of Louisiana to conduct industrial radiography operations. They have requested, in letters dated July 11, 2000, August 28, 2000, and September 18, 2000, respectively, that the United States Nuclear Regulatory Commission (NRC) grant them reciprocity, and an exemption from 10 CFR 34.20(a)(1), to use their pipeliner type radiography cameras (pipeliners) for pipeline radiography, on lay barges, in areas under exclusive Federal jurisdiction, within the Gulf of Mexico. Pipeliners are older model radiography cameras that do not meet the requirements of 10 CFR 34.20(a)(1). These regulations require equipment, used in industrial radiographic operations, to meet the requirements in ANSI N432–1980 [1]. Each of the applicants are allowed to conduct similar operations in the State of Louisiana under an exemption granted in their state licenses, and they are requesting NRC exemptions under 10 CFR 150.20 ''Recognition of Agreement States Licenses'' (Reciprocity).

Need for the Proposed Action

The exemption is needed so that the applicants can conduct pipeline radiography on lay barges. The applicants contend that due to the design of the lay barges, and the limited space available, the pipeliner is the only device of its kind that will keep up with production rate on a lay barge, while at the same time provide a safe working environment for their radiographers and barge personnel.

Environmental Impacts of the Proposed Action

There will be no significant environmental impact from the proposed action due to the fact that no radioactive material is being released into the environment, and all of the radioactive material is wholly contained within the radiography camera, which is only used in an enclosed radiography stall on a lay barge.

During normal operation the external radiation dose levels will not be significantly greater than an approved radiography camera's normal operating external radiation dose levels. Compensatory safety measures will be in place at all times during the operation of the pipeliner device.

Alternatives to the Proposed Action

As required by section 102(2)(E) of NEPA (42 U.S.C. 4322(2)(E)), possible alternatives to the final action have been considered. The only alternative is to deny the exemption. This option was not considered practical, and there would be no gain in protecting the human environment. Denying the exemption request would force the applicants to revert to radiography cameras that are designed to meet ANSI N432–1980, but, according to the applicants, these cameras would not be easily adaptable to lay barge operations. The newer cameras would be similar to the pipeliners in that their radioactive material is housed as a sealed source and there would be no release of material to the environment. However, the newer cameras have associated equipment, such as a drive cable and guide tube, that would require additional space to perform radiography on pipelines. According to the applicant, this equipment becomes cumbersome and may get in the way as the pipe is moved through the lay barge. In the newer devices, the sealed source would have to be cranked out of the shielded position in the camera housing through a guide tube to the exposure head location where the radiograph takes place. Because this ''crank out'' action causes the source to be unshielded while the source is cranked out to the exposure head, the ''restricted area'' boundary must be increased and could cause a greater potential exposure to non-radiography personnel on the lay barge.

Alternative Use of Resources

No alternative use of resources was considered due to the reasons stated above.

Agencies and Persons Consulted

The State of Louisiana was contacted by telephone on 04/18/01 regarding this proposed action. The State of Louisiana did not object to the proposed action and had no additional comments.

Identification of Sources Used

Letters from the applicants to U.S. Nuclear Regulatory Commission, Region IV, Re: Global X-ray & Testing Corporation, Louisiana License No. LA–0577–L01, July 11, 2000; Bayou Testing Services Inc., Louisiana License No. LA–7112–L01, August 28, 2000; Accurate NDE & Inspection L.L.C., Louisiana License No. LA–10207-L01, September 18, 2000.

Finding of No Signiticant Impact

Based on the above environmental assessment, the Commission has concluded that environmental impacts that would be created by the proposed action would not have a significant

[1] ''Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography (ANSI N432–1980),'' (published as NBS Handbook 136, issued January 1981).

effect on the quality of the human environment and does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

The applicants applications are available for inspection and copying for a fee in the Region IV Public Document Room, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011–8064. The documents may also be viewed in the Agency-wide Documents Access and Management System (ADAMS) located on the NRC website at www.nrc.gov.

Opportunity for a Hearing

Any person whose interest may be affected by the issuance of this action may file a request for a hearing. Any request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the publication of this notice in the **Federal Register**; be served on the NRC staff (Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852), and on the applicants, Global X-ray & Testing Corporation, PO Box 1536, Morgan City, Louisiana 70381; Bayou Testing Services Inc, PO Box 1065, Amelia, Louisiana 70340; Accurate NDE & Inspection L.L.C., P.O. Box 1298, Opelousas, Louisiana 70571–1298 and must comply with the requirements for requesting a hearing set forth in the Commission's regulations, 10 CFR Part 2, Subpart L, ''Information Hearing Procedures for Adjudications in Materials Licensing Proceedings.''

These requirements, which the request must address in detail, are:

1. The interest of the requestor in the proceeding;
2. How that interest may be affected by the results of the proceeding (including the reasons why the requestor should be permitted a hearing);
3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstances establishing that the request for hearing is timely—that is, filed within 30 days of the date of this notice.

In addressing how the requestor's interest may be affected by the proceeding, the request should describe the nature of the requestor's right under the Atomic Energy Act of 1954, as amended, to be made a party to the proceeding; the nature and extent of the requestor's property, financial, or other (i.e., health, safety) interest in the proceeding; and the possible effect of any order that may be entered in the proceeding upon the requestor's interest.

Dated at Rockville, Maryland, this 9th day of May, 2001.

For the Nuclear Regulatory Commission.

John W.N. Hickey,

Chief, Materials Safety and Inspection Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–12339 Filed 5–15–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–143]

Environmental Assessment and Finding of No Significant Impact of License Amendment for Nuclear Fuel Services, Inc., and Notice of Opportunity To Request a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Amendment of Nuclear Fuel Services, Inc., Materials License SNM–124 to Approve Partial Site Decommissioning Plan.

The U.S. Nuclear Regulatory Commission is considering the amendment of Special Nuclear Material License SNM–124 to approve the North Site Decommissioning Plan at the Nuclear Fuel Services, Inc., facility located in Erwin, TN, and has prepared an Environmental Assessment in support of this action.

ENVIRONMENTAL ASSESSMENT

1 Introduction

1.1 Background

Nuclear Fuel Services, Inc. (NFS) began operations at the Erwin, Tennessee facility in 1957. From then until 1981, portions of the North Site (NS) area were used for disposal of radioactive waste in accordance with 10 CFR 20.304. Since that time, the area has not been used for licensed operations. In 1991, NFS began partial remediation of the NS. These activities included removing the sludges from Ponds 1, 2, and 3, and removal of accessible waste in the Pond 4 area under authorization from the US Nuclear Regulatory Commission (NRC). Excavation of the (§ 20.304) burial area began in 1997. All previous work is authorized by license amendment and is not the subject of this environmental assessment. By request for license amendment dated July 30, 1999 (NFS North Site Decommissioning Plan, Rev. 1), NFS requested authorization to use the land use scenarios and residual radioactive concentrations described below to meet the requirements of suitability for release for unrestricted use as defined in NRC regulations. NFS has no plans at this time to release the NS area from their NRC license.

In 1997, NRC issued radiological criteria for license termination in 10 CFR part 20 subpart E. Section 20.1402 defines the radiological criteria for suitability for unrestricted use: 25 mrem/yr total effective dose equivalent from all pathways. As part of the rule-making to institute this regulation, an environmental impact statement determined that there was no significant impact on human health and safety at this level of exposure.

1.2 Geographic and Temporal Boundaries of the Environmental Assessment (EA)

The geographic scope of this EA is limited to the NS area of the NFS site, as defined in NRC license SNM–124. At the time of license termination for the entire NFS site, the results of the NS area final status survey may be reassessed in order to incude any possible dose contribution from the NS area in the dose assessment for the entire site and any impact from possible recontamination of the NS area.

Consistent with 10 CFR part 20, subpart E, the time of compliance for deriving the proposed cleanup levels is 1,000 years. Evaluation of dose impacts past this point is not considered to be necessary. When predicting thousands of years into the future, uncertainties become very large because of major potential changes in the hydrogeologic regime at the site over such long periods of time. The consequences of exposure to residual radioactivity levels such as those proposed are small and considering the large uncertainties, long-term modeling of possible doses would have little value. In addition, because of the long half-lives of the radioactive materials in question, no significant changes in potential impacts are anticipated until thousands of years after release.

2 Purpose and Need for Proposed Action

The licensee is remediating the North Site area so that it will be suitable for unrestricted use in accordance with the criteria in 10 CFR 20.1402. This action is required by 10 CFR 70.38 (Timeliness Rule) and a 1994 NRC Order.

3 Description of Proposed Action

Approval of the license amendment request will authorize decommissioning of the North Site by removal of contaminated soil to levels at or below

the proposed derived concentration guideline levels (DCGLs) presented in Table 1. These levels were calculated using the RESRAD computer code so that the indicated concentration of a single isotope would comply with a dose limit of 25 mrem/yr specified in 10 CFR 20.1402. If multiple isotopes are present, the individual concentration limits will be reduced to comply with the dose limit. Meeting these levels will permit release of the property for unrestricted use. Groundwater encountered during soil excavation will be pumped and treated at either the Wastewater or Groundwater Treatment Facilities. Upon completion of soil remediation, a final status survey of the North Site will be performed. Backfill of remediated areas with clean soil will begin after the final status survey demonstrates the area has been sufficiently decommissioned. Groundwater will be monitored for several years after excavation to determine uranium levels once residual radioactivity in soil is reduced to acceptable levels.

Also, pursuant to the hazardous waste permit issued to NFS in 1991–1993 under Resource Conservation and Recovery Act/Hazardous and Solid Waste Amendments (RCRA/HSWA) authority, EPA and TDEC are also requiring NFS to conduct appropriate monitoring, groundwater pilot studies and remediation until the EPA and Tennessee drinking water standards for hazardous and radioactive constituents are satisfied. This permit will also be used to establish and enforce any necessary institutional controls.

3.1 Proposed Action: Release for Unrestricted Use

The proposed action is to remove solid waste material from the existing burial areas, previously disposed in accordance with 10 CFR 20.304, and to remove contaminated material and soil until the residual concentrations of radionuclides are at or below those shown in Table 1. The major activities include the following:

Remove Building 400, surrounding tanks, utilities, and structures.[1]

Decontaminate and Decommission (D & D)[2] area north of Banner Spring working east to west. The excavation area is bounded by Banner Spring Branch and the security zone.

Relocate or temporarily reroute Banner Spring Branch and the plant drainage system.

D&D Banner Spring Branch streambed and Ponds 1 and 2.

D&D Banner Spring Branch outside the protected area.

D&D security zone areas.

D&D northwest area.

Remove 205 Substation and the guard tower and D&D area.

Remove Building 410 and D&D area.

TABLE 1—SOIL/SEDIMENT DCGLS[1] (ρ Ci/g) FOR NORTH SITE DECOMMISSIONING

Radionuclide	DCGL[2,3]
U-238	306
U-235	74
U-233/234[4]	642
Th-232	3.7
Th-230	17
Am-241	130
Pu-242	148
Pu-241	4365
Pu-240	141
Pu-239	140
Pu-238	155
Tc-99	414

[1] Values are for single nuclides; actual residual concentrations will be calculated using unity rule.

[2] Ingrowth of daughters radionuclides are taken into account in these DCGLs.

[3] DCGLs derived using RESRAD pathway analysis model.

[4] DCGL for U233/234 is collectively proposed.

Contaminated soil which exceeds the applicable release criteria will be stockpiled and covered as appropriate, transported to Building 410 or another area for processing, or loaded directly into containers. This material will be disposed in a licensed facility. Details of this alternative are provided in Section 3 of the NFS North Site Decommissioning Plan. Soils that meet the criteria in Table 1 will remain on site.

3.2 Analyses

A dose assessment was performed by NFS for both industrial or suburban residential use of the land after license termination. The licensee selected radionuclide-specific DCGLs for the soil from this dose assessment and selected the most restrictive limit for the radionuclide from the set of scenarios.[3] These DCGLs are listed in Table 1 above. Because the limits are radionuclide-specific, the licensee would then use the sum of fractions to verify that the final concentrations result in a dose equal to or less than 0.25 mSv/y (25 mrem/y).

As part of the analysis, the licensee proposed that groundwater pathways be eliminated from consideration as part of the dose modeling for soil DCGLs. The staff has agreed with this approach for the following reasons:

- The water in the shallow aquifer is of lower quality, is in contact with a marsh, and contaminated above EPA limits for drinking water with pollutants not related to operations at the site;
- There are readily available sources of inexpensive, clean water at the site;
- Based on current practices and water-well regulations in the region, a new well would not tap the shallow, unconsolidated aquifer in the North Site area, which is located within the 100-year flood plain of the Nolichucky River;
- Only a small portion of the shallow aquifer of the North Site is contaminated at levels that would cause drinking water dose above NRC's regulatory limit; and
- The licensee is committed to implementing appropriate remediation of contaminated groundwater under the continued authority of the EPA and TDEC RCRA/HSWA permit.

Therefore, the calculation of soil DCGLs with no water-borne pathways is a reasonable assessment of potential future dose estimates.

4 Decommissioning Alternatives

NRC considered alternatives to the proposed action. These are described below.

4.1 No Action

This alternative is to leave the site in its current, contaminated condition. This would leave large volumes of contaminated soil and groundwater. Leaving the site in this condition would not comply with NRC regulations requiring remediation of unused outdoor areas and poses a potential threat to public health and safety. Therefore, this alternative is not acceptable.

4.2 Alternative Actions Considered and Decision Rationale

4.2.1 Approval of the amendment request, but with additional conditions restricting use of the site to industrial development only with no groundwater use.

A dose assessment was performed by NFS for both the postulated industrial land-use scenario and a construction scenario. Results of this dose assessment were used to determine radionuclide-

[1] These tasks will begin prior to approval of this plan. Removal of Building 400 and associated utilities and equipment is being performed under the NRC approved decommissioning plan for Ponds 1, 2, and 3 (NFS 1991).

[2] D&D of the area includes excavating contaminated soil, conducting a final survey of the area, and backfilling the excavation. D&D of some areas may be performed concurrently (*i.e.*, excavation of one area may begin before backfilling of another area is completed).

[3] NFS's report "Potential Dose Due to Radioactive Contamination in Soil and Groundwater in the North NFS Plant Site, Revision 1."

specific dose-to-source factors (mrem/y per pCi/g in soil) for site contaminants. These are presented in the NFS report ''Potential Dose Due to Radioactive Contamination in Soil and Groundwater in the North NFS Plant Site, Revision 1''. Based on TEDE dose limits of 25 mrem/y to the average member of the critical group (industrial worker and/or construction worker) and 100 mrem/y if controls failed, these dose-to-source factors were used to derive a set of restricted release soil concentration guideline levels (CGLs). Site characterization results were compared (on a sum-of-fractions basis) to the set of restricted-release DCGLs to estimate the volume of soil that would need to be removed from the site to meet the DCGLs. Approximately 864,000 ft^3 of material (including an estimated 500,000 ft^3 of debris and soil from the North Site burial trenches) was determined to require removal to achieve the set of restricted-release DCGLs. This alternative was rejected by NFS because it does not meet the goal of unrestricted release at license termination.

4.2.2 Approval of the amendment request, but with additional conditions imposing legally enforceable restrictions prohibiting use of groundwater.

This alternative is similar to 4.3, but does not limit land use to industrial activities. It would add a prohibition against the use of groundwater from the shallow alluvial formation. The remediation activities are the same as those in the proposed alternative. NFS has presented data on current use of land and groundwater that demonstrates that there is no anticipated use of the groundwater in the alluvial formation because it is of poor quality and because of the availability of inexpensive, high quality water from the City of Erwin (see § 3.2). Current zoning in the area is for industrial use and the immediate surrounding area is classified as suburban residential. Therefore, subsistence farming is not likely to occur in the area, and City water will be used for all activities requiring water, such as consumption, bathing, watering lawns, etc. This alternative is rejected because the addition of institutional controls is deemed not to provide significant benefit, and to add to the cost of decommissioning because of the provision to 10 CFR 20.1403(e) requiring funds in perpetuity for a third party to implement the controls. Furthermore, it is not necessary for NRC to establish requirements prohibiting use of ground water, as EPA and TDEC are requiring remediation to drinking water standards (see Section 3.0 above).

4.3 Alternatives Considered and Rejected.

Require remediation of both groundwater and soil to levels such that the dose from all pathways meets criteria for unrestricted use.

This alternative would require calculation of the dose from existing contamination in both soil and water-borne sources. Then, residual contamination limits in both media must be calculated. The residual concentration in both media must then be reduced to levels that would limit the all-pathways-dose to 25 mrem/yr.

This alternative is rejected for the following reasons: (a) The water in the shallow aquifer is of lower quality, in contact with a marsh, and contaminated above EPA limits for drinking water with pollutants not related to operations at the site; (b) there are readily available sources of inexpensive, clean water at the site; (c) based on current practices and water-well regulations in the region, a new well would not tap the shallow, unconsolidated aquifer in the North Site area, which is located within a 100-year flood plain; (d) only a small portion of the shallow aquifer of the North Site is contaminated at levels that would cause drinking water dose above NRC's regulatory limit; and (e) The licensee is committed to implementing appropriate remediation of contaminated groundwater under the continued authority of the EPA and TDEC RCRA/HSWA permit. Further, there would be large additional cost to ship more than 300,000 ft^3 of moderately contaminated soil to a licensed disposal facility.

5 Affected Environment

5.1 Site Location and Physical Description

The NFS facility is located immediately south of Erwin, Tennessee. Erwin is a town of about 6,000 people located in Unicoi County, about 15 mi (24 km) south of Johnson City and 120 mi (190 km) east of Knoxville, TN. Unicoi County is 200 mi^2 (520 km^2) in NE Tennessee and has a population of about 20,000. The area surrounding Erwin is mostly within the Cherokee National Forest. The facility comprises about 62 acres (25 ha), of which about 24 acres (9.7 ha) are designated as the North Site area. The site is situated in a valley that parallels the Nolichucky River, running roughly NE–SW. To the southeast, the land rises up Banner Hill and on to the Unaka mountains; to the west across the Nolichucky River is Looking Glass Mountain.

5.1.1 Climate

The climate in the Erwin area is temperate with an average annual temperature high of 73°F and an average low of 38°F (USDA 1985). The average high in January is 46°F and the low is 25°F. The average high in July is 87°F and the low is 63°F. Precipitation is moderate and evenly distributed throughout the year. The average annual precipitation for Erwin is 43.83 inches (based on data from 1967–1990). The average seasonal snowfall in Erwin is 15 inches and occurs within a five-month period (November–March) (USDA 1985). Prevailing wind is from the south-southwest. Average monthly wind speed is highest, 8 mph, in March (USDA 1985). Atmospheric data are maintained at Erwin Utilities and at NFS.

5.1.2 Surface Water

Surface water runoff from NFS drains to Martin Creek either directly through two 42-inch culverts parallel to the northwest site boundary, or indirectly via Banner Spring Branch. Martin Creek discharges to the Nolichucky River via North Indian Creek. Characteristics of Banner Spring Branch, Martin Creek, and the Nolichucky River are summarized below.

Banner Spring Branch: Banner Spring Branch emanates from a spring (Banner Spring) located on the NFS property upgradient of manufacturing facilities. The source of Banner Spring is probably fracture controlled groundwater from the mountains southeast of the site. Banner Spring has a continuous flow rate of about 300 gallons/minute. Neither Banner Spring nor Banner Spring Branch are used as a source of drinking water. Along the northern corner of the site, Banner Spring Branch empties into Martin Creek, a stream that runs along the northeast boundary of the NFS property.

Martin Creek: The base flow of Martin Creek is 1,000 to 5,000 gallons per minute with seasonal variations. Martin Creek originates in the Unaka mountains southeast of Erwin at an elevation near 4,000 feet above sea level. It follows a very straight course near the NFS site leading some investigators to conclude that its course follows a strike slip fault adjacent to or downstream of the NFS site. Martin Creek is a tributary to North Indian Creek, which empties into the Nolichucky River approximately one and one-half miles north of the NFS property.

Nolichucky River: The Nolichucky River originates in the North Carolina mountains to the southeast and has an average flow rate of 450,000 gallons/

minute. In the vicinity of NFS, the river follows a relatively straight course parallel to the long axis of the facility (southwest to northeast) and is generally located from 800 to 1,000 feet to the facility's northwest. The nearest public water supply on the Nolichucky River, downstream of the plant site, is the town of Jonesborough, Tennessee, located approximately eight miles northwest of Erwin.

5.1.3 Geology and Groundwater

The geology consists of six to fifteen feet of unconsolidated alluvium consisting of silts and clays, clayey sand, and sand with varying amounts of gravel and cobble. The alluvium coarsens with depth into cobbles and boulders. This cobble/boulder zone overlies weathered, fractured bedrock consisting of steeply dipping beds of shale or shale interbedded with dolomite and siltstone. The bedrock exists at depths ranging from approximately seven to twenty-nine feet below ground surface (EcoTek 1994). Both the alluvium and the shallow bedrock contain groundwater under unconfined conditions. No laterally continuous physical separation exists between the two lithologies. Recharge to the alluvium and shallow bedrock is predominantly from downward infiltration of rainwater through the vadose zone. Some upward component of flow is evident within the deeper bedrock (50+ feet) which is probably the result of higher elevation recharge through fracture systems in the mountains to the southeast. Measured heads in the bedrock wells are consistent with and indicative of a nonfractured dominated flow regime. The thinly bedded, poorly competent nature of the bedrock may contribute to flow patterns more analogous to the porous media model than the fracture flow model. Limited evidence, such as high well yields, exists for structure or fracture controlled movement of groundwater in the deeper zone (EcoTek 1994).

5.2 Facility Operations

The North Site area has two former burial sites of waste disposed under 10 CFR 20.302 and 20.304, three wet ponds used to hold process waste, and a wetlands area. There is one temporary building (410) in the southwest part of the area. Prior to that time the area was a farm, as was much of the surrounding area.

The area being decommissioned is located both inside and outside of the plant protected area which is defined by a double security fence. Within the protected area are Banner Spring Branch, a small marsh, open grass-covered grounds, the three surface impoundments, and Pond 4. Banner Spring Branch runs through the property originating in the east just outside the security fence and discharging into Martin Creek to the north. The grounds outside the plant protected area, but inside the outer access control fence (the perimeter fence), include grass-covered fields, wooded areas, and a marsh. Also present are a burial ground and a demolition landfill. Trees cover most of the grounds outside the perimeter fence. Temporary buildings located in the area to be decommissioned include steel frame, metal buildings. These buildings are currently used in support of remediation activities. Five trailers located in the area provide offices, break area, showers and storage. Four small (less than 100 ft^2 sheds located in the characterization area house analytical equipment environmental sampling equipment (Banner Spring Branch Sampling Station and Sanitary Sewer Sampling Station), water control equipment (Backflow Preventer Bldg.), and vehicle cover. Other structures include a locked guard tower, a series of abandoned, partially intact residences located in the woods in the northeast area of the site, concrete pads for support of remediation equipment, fencing, light poles, electrical distribution facilities, pipes and conduits, a concrete drainage ditch, enclosed culverts, and miscellaneous equipment (*e.g.*, knockout tank, bladder tanks).

5.3 Radiological Status of the Facility

5.3.1 Radiological status of structures and equipment

Direct surveys were limited to four sampling sheds and a guard tower which are not likely to be affected by remediation efforts. Surveys found the amount of activity present on these structures to be below the surface contamination limits in NFS' SNM–124 license. All other structures in the North Site will be used to support decommissioning operations and will be surveyed at the time of their release from the site.

5.3.2 Radiological Status of Surface and Subsurface Soils

The primary radioactive contaminants in the North Site are uranium (U-234, U-235, and U-238), thorium (Th-228, Th-230, and Th-232), plutonium (Pu-238, Pu-239/240, Pu-241, and Pu-242), americium 241, and technetium 99. Levels of radioactive contamination currently exceed the release criteria in soil and sediment across much of the North Site inside the plant protected area. Contamination above the criteria is present down to the level of auger refusal in much of the protected area. Contamination also exists between the cobbles. Only a portion of the north east corner of the plant protected area is not contaminated above the release criteria.

Areas outside the plant protected area that exceed the release criteria include soil/sediment surrounding Banner Spring Branch, the burial trenches, the contaminated soil mound area, and isolated occurrences between the radiological burial ground trenches and Banner Spring Branch. Radioactive contamination primarily occurs on the surface and does not extend beyond a depth of about four feet except in the burial ground where it extends approximately 4–5 meters. Analytical results from the burial trench cap indicated only a few isolated areas where contamination was present above the release criteria. There is no indication that soil contamination extends off-site to the north and east. Radiological soil contamination to the west of the North Site is bounded by the former streambed of Banner Spring Branch which was released by the NRC in 1987 (NRC 1987). Soil beneath the current microwave security zone (area between the inner and outer fences) at the west site boundary was not included in the NRC release and is contaminated above the release criteria.

5.3.3 Radiological Status of Ground and Surface Water

Banner Spring Branch and Martin Creek contain contamination below effluent concentration limits in Appendix B to 10 CFR part 20. Groundwater throughout the North Site Area is contaminated to varying levels ranging from a few ρCi/l, below release limits, to more than 600 ρCi/l. The primary contaminants are isotopes of uranium and technetium-99. Tc-99 is present in off-site wells to the west of the site boundary in concentrations above background, but a small fraction (~1%) of EPA limits. Uranium has not yet been detected off-site. Based on no ground water remediation, NFS projections calculate concentrations exceeding 30 ρCi/l in the alluvial ground water migrating beyond the site boundary as early as 2003; migration in the deeper levels—cobbles and shallow bedrock—occurs at a slower rate, but is calculated to exceed 30 ρCi/l beyond the site boundary within 1,000 years. (Geraghty & Miller, 1996)

6 Environmental Impacts

6.1 Adverse Impacts

The International Commission on Radiological Protection has determined that the current level of protection from radiation for man will ensure that other species are not put at risk (ICRP, 1990). The Department of Energy has issued an interim standard with screening dose limits for aquatic animals (1 rad/d), riparian and terrestrial animals (0.1 rad/d), and terrestrial plants (1 rad/d). These doses are in excess of the 25 mrem/yr limit for the release of this site. Therefore, no separate environmental risk assessment was performed.

6.1.1 Radiological Impacts to the Public and Workers

Material contaminated above release limits will be shipped to a licensed disposal facility. The licensee's radiological protection program, which is described in Chapter 4 of the Decommissioning Plan, requires use of hazardous work permits, etc. that will limit doses to workers to less than or equal to the limits in 10 CFR part 20.

Minor spills and/or releases may occur as contaminated soil is being prepared for shipment or during transport to an offsite disposal facility. However, considering that the majority of the waste stream expected to be generated during decommissioning comprises contaminated soil, these incidents would pose only negligible impact to human health and the environment. In the event of a spill of this nature, decontamination efforts and any required notification would be performed in accordance with the NFS Emergency Plan and emergency procedures.

Residual concentrations of radionuclides in soil are shown in Table 1. Based on the industrial and suburban resident land use scenarios, the radiological impact from the residual contamination will not exceed 25 mrem/yr the public.

6.1.2 Non-Radiological Impacts

Portions of the site, primarily the groundwater, are contaminated with solvents (PCE, TCE, etc.) from NFS activities. These materials are the subject of an EPA and TDEC RCRA/HSWA Permit requiring investigation and remediation to EPA and Tennessee standards in a time-frame agreed upon between EPA, TDEC and NFS. Therefore they are not addressed in this EA. However, a pilot groundwater remediation study has recently been implemented to accommodate all groundwater contaminants, i.e., radioactive and non-radioactive.

6.1.3 Historical and Archaeological Resources

After considering the documentation submitted, it is the opinion of the Tennessee Historical Commission that there are no national register of historic places listed or eligible properties affected by this undertaking. This determination is made either because of the location, scope and/or nature of the undertaking, and/or because of the size of the area of potential effect; or because no listed or eligible properties exist in the area of potential effect; or because the undertaking will not alter any characteristics of an identified eligible or listed property that qualified the property for listing in the National Register or alter such property's location, setting or use. Therefore, this office has no objections to proceeding with the project.

6.1.4 Terrestrial Biota

There is a Federally Threatened Plant in the vicinity of the NFS site: Virginia spiraea (Spiraea virginiana). Because of the industrial nature of the NFS site and surrounding area, there is no suitable habitat for this species at the site.

6.1.5 Aquatic Biota

There is a Federally Endangered mussel species, Appalachian elktoe (Alasmidonta raveneliana), near the confluence of the Nolichucky River and South Indian Creek. Because this is upstream of the confluence of the Nolichucky River and Martin Creek and the NFS site, no impact is expected on this species. No discharges from NFS into Martin Creek are expected from decommissioning activities.

6.1.6 Wetlands

There is a wetland area (0.2 acres) near Pond 3 and Banner Spring that will be removed as part of the proposed decommissioning activities. This will be replaced with a larger one (0.4 acres) in the northeast corner of the North Site Area in accordance with a permit from TDEC. Banner Spring Branch will be relocated and enclosed in a pipe for the balance of plant life. To compensate for this, NFS will improve a wetland area near the federal fishery, approximately three miles north of the site. TDEC and US Fish and Wildlife Service will authorize this activity by a Memorandum of Agreement with NFS.

6.1.7 Water Resources

No ground water remediation will take place as part of the proposed alternative. The existing contamination, primarily uranium and technetium, will remain in the alluvial groundwater. Some uranium and technetium are calculated to migrate off-site to the west in the shallow groundwater. As discussed in Section 3.0, NFS will remediate ground water to drinking water standards in the future. However, this groundwater will not be used as a water supply. Therefore, it will not contribute to a dose to members of the public. Vertical migration of the contamination is also calculated, but it is not expected to reach the deep aquifer, that is used as a drinking water supply, within 1,000 years.

Banner Spring Branch will be relocated during remediation activities as discussed in § 6.1.6 above.

6.1.8 Construction Impacts

No building construction will occur in this action except the removal of temporary building 410, at the completion of remediation. No adverse effects will occur in the environment from this activity.

6.2 Impacts to Aesthetic, Economic, Cultural, Social, Air Quality, Noise Resources and Habitat Destruction

There will be no discernable impacts on aesthetics, socio-economics or cultural resources because the work is being done by existing staff and the physical configuration of the facility will remain the same as current.

There may be minor, temporary impacts on air quality and noise during remediation activities. NFS has dust control measures in place, and the use of equipment will not significantly change from the current industrial environment.

A part of a marsh area (wetland) will be destroyed as part of the remediation activities. This area will be replaced as discussed in Section 6.1.6 above.

7 Planned Monitoring

This area will remain within licensee control and will be monitored in accordance with the pertinent provision of the license for operational and environmental monitoring.

8 Agencies and Individuals Consulted, and Sources Used

8.1 Environmental Protection Agency

EPA Region IV has reviewed the proposed action and:

- Concurs with the rationale that the groundwater pathway can be eliminated from consideration in calculating soil cleanup levels and radioactive doses from the sources of the North Site
- Maintain that the RCRA/HSWA Permit issued to NFS will be used to enforce appropriate groundwater pilot studies and necessary groundwater remediation of all contaminated groundwater according to the most

recent ''Handbook of Groundwater Policies for RCRA Corrective Action'' (EPA 530–D–00–001, updated 4/40/2000). See *http://www.epa.gov/correctiveaction*

• Maintain that the RCRA/HSWA Permit issued to NFS will be used to enforce appropriate and necessary layered institutional controls (ICs) according to the EPA document titled ''Institutional Controls: A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups'' (EPA 540–F–00–005, OSWER 9355.0–74FS–P, dated September 2000). Some examples of ICs include easements, covenants, well drilling prohibitions, zoning restrictions, and special building permit requirements. Deed restriction is a phrase often used in remedy decision documents to describe easements or other forms of ICs; however, this is not a traditional property law term and will be avoided. Because fences are physical barriers instead of administrative or legal measures, they are not considered to be ICs.

8.2 Tennessee Department of Environment and Conservation

The State has reviewed the proposed action and concurs with the conclusion regarding radiological dose and approval of the North Site Decommissioning Plan.

8.3 Tennessee State Historic Preservation Officer (SHPO)

After considering the documentation submitted, it is SHPO's opinion that there are no national register of historic places listed or eligible properties affected by this undertaking.

8.4 U.S. Fish and Wildlife (US FWS)

The US FWS has determined that no listed species will be impacted by the proposed action. FWS also concludes that the EA supports the conclusion that the proposed action is not likely to adversely affect the environment. A Memorandum of Agreement between TDEC, USFWS and NFS will be developed to regulate activities near the federal fishery.

9 References

U.S. Nuclear Regulatory Commission (NRC). 1987. Official Correspondence from Leland C. Rouse, Chief, Fuel Cycle Safety Branch, to NFS. July 24, 1987.

U.S. Department of Agriculture Soil Conservation Service. 1985. Soil Survey of Unicoi County, Tennessee. Carlie McCowan. September 1985.

International Commission on Radiological Protection. 1990. ICRP 60 § 16.

NRC approved decommissioning plan for Ponds 1, 2, and 3 (NFS 1991).

EcoTek 1994. 1992/1993 NFS Hydrogeologic Investigation and Monitoring Well Installation Program. EcoTek, Inc. June 30, 1994.

Nuclear Fuel Services, Inc. (NFS). 1999a. Potential Dose to Radiological Contaminants in North Site Soil and Groundwater, Revision 1. February 1999.

Final Report: Groundwater and Constituent Transport modeling at the Nuclear Fuel Services Facility; Geraghty & Miller, Inc. 4/99.

NFS North Site Decommissioning Plan, Revision 1, 7/99.

Nuclear Fuel Services, Inc. (NFS). 1999. North Site Characterization Report for Nuclear Fuel Services, Inc., Erwin, Tennessee, Revision 1. July 1999.

U.S. Department of Energy. Interim Technical Standard ''A Graded Approach for Evaluating Radiation Doses to Aquatic and Terrestrial Biota.'' June 2000.

Tennessee Historical Commission 2000. Letter from R. L. Harper to Larry W. Camper. December 19, 2000.

U.S. Environmental Protection Agency, Region 4 2001. Letter from Leo J. Romanowski, Jr. to Phil Ting. February 21, 2001.

Tennessee Department of Environment and Conservation 2001. Letter from Debra Schults to Phil Ting. February 20, 2001.

U.S. Fish and Wildlife Service. Letter from Steven Alexander, U.S. FWS to J.C. Shepherd, April 18, 2001.

Finding of No Significant Impact

The Commission has prepared the above Environmental Assessment related to the amendment of Special Nuclear Material License SNM–124. On the basis of the assessment, the Commission has concluded that environmental impacts associated with the proposed action would not be significant and do not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

In accordance with 10 CFR 2.790 of the NRC's ''Rules of Practice,'' the Environmental Assessment and the documents related to this proposed action will be available electronically for public inspection from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/NRC/ADAMS/index.html* (the Public Electronic Reading Room).

Opportunity For a Hearing

Based on the EA and accompanying safety evaluation, NRC is preparing to amend License SNM–124. The NRC hereby provides that this is a proceeding on an application for amendment of a license falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,'' of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission either:

1. By delivery to the Rulemakings and Adjudications Staff of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or

2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h).

3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

In accordance with 10 CFR § 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail to:

1. The applicant, Nuclear Fuel Services, Inc., 1205 Banner Hill Road, Erwin, TN 37650; and

2. The NRC staff, by delivering to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

The NRC contact for this licensing action is Mary T. Adams, who may be contacted at (301) 415–7249 or by e-mail at *mta@nrc.gov* for more information about the licensing action.

Dated at Rockville, Maryland, this 3rd day of May 2001.

For the Nuclear Regulatory Commission

Lidia A. Roche,

Acting Chief, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–11755 Filed 5–15–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Joint Meeting of the ACRS Subcommittees on Materials and Metallurgy, Thermal-Hydraulic Phenomena, and Reliability and Probabilistic Risk Assessment; Cancellation

The joint meeting of the ACRS Subcommittees on Materials and Metallurgy, Thermal-Hydraulic Phenomena, and Reliability and Probabilistic Risk Assessment scheduled for May 25, 2001, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland has been canceled. Notice of this meeting was previously published in the **Federal Register** on Tuesday, May 8, 2001 (66 FR 23280).

FOR FURTHER INFORMATION CONTACT: Mr. Michael T. Markley cognizant ACRS staff engineer, (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EDT).

Dated: May 10, 2001.

James E. Lyons,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 01–12337 Filed 5–15–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from April 23, 2001, through May 4, 2001. The last biweekly notice was published on May 2, 2001 (66 FR 22021).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By June 15, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the

following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Branch, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of amendment request: April 16, 2001.

Description of amendment request: Energy Northwest is requesting approval for a change to the facility as described by the Final Safety Analysis Report (FSAR). The change allows for an unisolable drain line between the reactor core isolation cooling (RCIC) and control rod drive/condensate (CRD/COND) pump rooms. This change will modify the requirements that the RCIC and CRD/COND pump rooms be water-resistant or watertight, and connected by an isolable drain line.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to allow operation of the plant with an open drain line between the RCIC and CRD/COND pump rooms does not increase the chances of a flooding event occurring in the RCIC or CRD/COND pump rooms. Also, operating the plant with an open drain line between the RCIC and CRD/COND pump rooms does not increase the radiological consequences of any previously evaluated accidents. A conservative revision to the flooding safe shutdown analysis, which combines the effects on equipment of both rooms flooding simultaneously, shows that sufficient safe shutdown equipment remains available and safe plant shutdown can be accomplished. Remaining systems are the same as the equipment providing the safe shutdown path approved by the NRC for Appendix R post-fire safe shutdown scenarios. Furthermore, the effects of the postulated flood from a pipe crack plus other normal leakage spread over the large floor area of the combined RCIC and CRD/COND rooms results in a flood event that develops slowly. If credited, safety-related leak detection instrumentation is available to provide plant operators more time to terminate the flood and limit the amount of equipment potentially lost from the event. With consideration of operator action and mitigation, the flood could be terminated quickly with minimal components affected. Plant procedures provide direction for operators to take actions to mitigate floods.

The proposed change to remove the requirement that pump room wall penetrations and doors located in the Reactor Building be ''water-resistant'' or ''watertight'' does not contribute to the likelihood that a flooding event will occur, nor does it increase the radiological dose received in any previously evaluated accidents. Reactor Building pump room doors and penetrations will exhibit a minimal amount of leakage during a flooding event, and have seals that can leak yet still minimize flooding between rooms even with significant hydrostatic pressure generated from flooding water levels. The minimal water leakage past these seals is consistent with assumptions documented in the existing flooding analysis.

Therefore, operation of Columbia Generating Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of

accident from any accident previously evaluated.

The proposed change to allow an unisolable drain line between the RCIC and CRD/COND pump rooms is accounted for in a revised and conservative flooding safe shutdown analysis. The flooding safe shutdown analysis documents the impact of flooding on equipment in the pump rooms, and on electrical circuits routed through, but not terminated in, the RCIC and CRD/COND pump rooms. From this analysis no link could be established between affected systems and mechanisms that could create a new or different kind of accident. The analysis also concluded that the effects of the unisolable drain line and subsequent flood would not cause a transient that would be imposed on the current analysis that assumes a flood with a single active failure. Therefore, the unisolable line between the RCIC and CRD/COND rooms will not create the possibility of a new or different kind of accident. The proposed change to allow minimal water leakage past ECCS [Emergency Core Cooling System], RCIC and CRD/COND pump room doors and penetrations is consistent with and documented in existing flooding analysis assumptions. These rooms do not need to be water-resistant or watertight.

Therefore, operation of Columbia Generating Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change to allow an unisolable drain line between the RCIC and CRD/COND pump rooms does not result in a significant reduction in the margin of safety. The change is of very low risk significance, with an increase in core damage frequency of less than 1E–10. Furthermore, a revised and conservative flooding safe shutdown analysis has concluded, as with previous flooding analysis for the ECCS, RCIC and CRD/COND pump rooms, that the ability to safely shutdown the plant has been preserved when considering a flooding scenario which impacts both the RCIC and CRD/COND pump rooms. In addition, safety-related leak detection instrumentation is available and could be credited to provide plant operators more time to terminate the flood and limit the amount of equipment potentially lost from the event. With consideration of operator action and mitigation, the flood could be terminated quickly with minimal components affected. Plant procedures provide direction for operators to take actions to mitigate flooding in ECCS, RCIC and CRD/COND pump rooms.

The proposed change to allow minimal water leakage past ECCS, RCIC and CRD/COND pump room doors and penetrations does not result in a significant reduction in the margin of safety because it does not prevent the plant from achieving safe shutdown during a flooding event. Minimal water leakage is consistent with and documented in existing flooding analysis assumptions.

Therefore, the operation of Columbia Generating Station in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas C. Poindexter, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Stephen Dembek.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: February 19, 2001.

Description of amendment request: The proposed change to the Technical Specifications (TS) modifies TS 3.6.5, ''Vacuum Relief Valves,'' limiting condition for operation and extends the allowed outage time from 4 hours to 72 hours for returning an inoperable primary containment to annulus relief valve to OPERABLE status. In addition, Entergy proposes to delete Attachment 1 to the Waterford Steam Electric Station, Unit 3 Operating License and revise Condition 2.C.1 to reflect the deletion.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes do not create any new system interactions and have no impact on operation or function of any system or equipment in a way that could cause an accident. The primary containment to annulus vacuum relief valves are part of the containment vacuum relief system and are not initiators of any events nor affect any accident initiators of any events previously analyzed in Chapter 15 of the FSAR [Final Safety Analysis Report].

The primary containment to annulus vacuum relief valves are designed to mitigate the consequences of an inadvertent containment spray system actuation during normal plant operation. The FSAR analysis determined that with one of the two containment vacuum lines failed, the resultant peak calculated external pressure load of 0.49 psi [pounds per square inch] on the containment was less than the design external pressure loading of 0.65 psi. These proposed changes do not affect any of the assumptions used in the analysis. Hence, the consequences of the design basis accident previously evaluated do not change.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not alter the design, configuration, or the method of operation of the plant. There is no change being made to the parameters within which the plant is operated. The setpoints at which the protective or mitigative actions are initiated are unaffected by this change. As such, no new failure modes are being introduced that would involve any potential initiating events that would create any new or different kind of accident.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

The proposed changes do not affect the bases used in or the results of the analysis to establish the margin of safety. The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. None of these are impacted by the proposed change. The proposed change is acceptable because it assures at least one vacuum relief line will remain available in the event of a single failure. This further assures the ability to actuate upon demand for the purpose of mitigating the consequences of the design basis accident (inadvertent actuation of the containment spray system during normal operation). The remaining vacuum relief line provides sufficient vacuum relief capacity to prevent exceeding the design external pressure loading on containment of 0.65 psi. The resultant calculated peak external pressure loading on containment is 0.49 psi.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: N. S. Reynolds, Esquire, Winston & Strawn 1400 L Street NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: April 2, 2001.

Description of amendment request: Pursuant to 10 CFR 50.59, Entergy Operations, Inc. (the licensee) requests

review and approval of changes to the Waterford Steam Electric Station, Unit 3, design basis as described in the Updated Final Safety Analysis Report (UFSAR) for which it has been determined that an unreviewed safety question exists. The change concerns design requirements for the alignment of the Refueling Water Storage Pool (RWSP) boundary isolation valves to the RWSP Purification System.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change will allow the manual valves (FS–423 and FS–404) that isolate the RWSP from the RWSP Purification System to be maintained open. The RWSP Purification System is aligned to the RWSP to maintain the purity and clarity of the borated water contained in the pool. The RWSP is also one of two means of makeup to the Spent Fuel Pool (SFP), with the Condensate Storage Pool being the primary makeup source. These manual valves provide the boundary between the seismically qualified safety related RWSP and the non-seismic, non-safety related RWSP Purification System.

(1) The proposed activity does not involve a significant increase in the probability or consequences of any accident previously evaluated.

The RWSP is not involved in any initiating event that could result in any accident. The RWSP has a safety function that assists in accident mitigation.

The proposed change has been reviewed against Engineering Standards and Licensing requirements contained in the Updated Final Safety Analysis Report (UFSAR). This review has concluded that use of operator action to isolate the RWSP Purification System Boundary Isolation valves or secure the RWSP Purification pump, as necessary, will allow the RWSP to perform its safety function in any plant mode. The RWSP, however, is not required to perform a safety function concurrent with a seismic event. The highest estimated annual probability of a small Loss of Coolant Accident (LOCA) while the purification system is aligned to the SFP, and operator failure to isolate the purification system, causing a diversion of RWSP water that could affect the Emergency Core Cooling System (ECCS) pumps is about 2.5E–8 per year, which is considered a negligible risk.

Therefore, the proposed activity does not involve a significant increase in the probability or consequences of any accident previously evaluated.

(2) The proposed activity does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The RWSP Purification System was intended to be aligned periodically to the RWSP. The proposed change will allow the RWSP Purification System to be normally aligned to the RWSP through manually operated open valves. It has been shown that operator action can be credited to isolate the RWSP Purification System in a sufficient time to ensure the safety function of the RWSP is maintained. If Recirculation Actuation Signal (RAS) occurs the isolation valves will become inaccessible due to high dose rates in the general area. However if the RAS occurs before an operator can isolate the RWSP (i.e. 54 minutes), the RWSP Purification System would not have to be isolated because the RWSP would have fulfilled its required safety function.

The proposed alignment to maintain the RWSP Purification System isolation valves open introduces a new system interaction during a LOCA. However, it has been demonstrated the the safety function of the RWSP is assured assuming the new system interaction.

Therefore, the proposed activity does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed activity does not involve a significant reduction [in] a margin of safety.

It has been evaluated that it will take no more than 54 minutes for operations personnel to isolate the RWSP. During this time, approximately 1.4% of the RWSP level could be depleted assuming maximum leakage. This volume will be incorporated into the analytical limit. The proposed analytical limit will continue to assure the safety limits evaluated in the Design Basis Accident (DBA) analyses are maintained.

Therefore, this proposed activity does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: N. S. Reynolds, Esquire, Winston & Strawn 1400 L Street NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: April 2, 2001.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to relocate TSs 3/4.9.4, ''Refueling Operations, Decay Time;'' 3/4.9.5, ''Refueling Operations, Communications;'' 3/4.9.6, ''Refueling Operations, Refueling Platform;'' and 3/4.9.7, ''Refueling Operations, Crane Travel-Spent Fuel Storage Pool;'' to the Hope Creek Updated Final Safety Analysis Report (UFSAR). The proposed amendment would also modify the associated Bases pages and index pages.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The requested amendments will not involve an increase in the probability or consequences of an accident previously evaluated. Relocation of the affected Technical Specification sections and their Bases to the Hope Creek UFSAR will have no affect on the probability that any accident will occur. Additionally, the consequences of an accident will not be impacted because the affected systems and components will continue to be utilized in the same manner as before. No impact on the plant response to accidents will be created.

Based on the above, the proposed changes do not significantly increase the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated. No new accident causal mechanisms will be created as a result of the relocation of the affected Technical Specification requirements and their Bases to the Hope Creek UFSAR. Plant operation will not be affected by the proposed amendments and no new failure modes will be created. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed amendments will not involve a reduction in the margin of safety. Relocation of the affected Technical Specification requirements to the Hope Creek UFSAR is consistent with NUREG 1433, [''Standard Technical Specifications, General Electric Plants, BWR/4,[''] Revision 1, dated April 1995, and with the NRC's Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors (58 FR 39132), dated July 22, 1993, which encourages utilities to propose amendments consistent with NUREG 1433. The margin of safety is unchanged; therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21,

P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Section Chief: James W. Clifford.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: April 17, 2001.

Description of amendment request: The amendment would remove unnecessary details for certain secondary post-accident monitoring instrumentation from Technical Specification Table 3.2.6.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Will the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The post accident monitoring (PAM) instrumentation is not considered as an initiator or contributor to any previously evaluated accident. The proposed change will not impact the ability of the PAM instrumentation to perform its intended function, nor does it impact any Final Safety Analysis Report safety analysis. Therefore, the proposed change will not increase the probability of any accident previously evaluated.

Additionally, while the PAM instrumentation provides information to the control room operator that may be used to mitigate an accident, this change does not affect the ability of the PAM instrumentation to perform this function. This change does not modify any parameters of previously analyzed events.

Therefore, the proposed change will not increase the consequences of any accident previously evaluated.

2. Will the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve any physical modification to the plant, change in Technical Specification setpoints, plant operation, or design basis of the plant. The PAM instrumentation provides information to the plant operator to assist in the mitigation of an accident, and the means for accomplishment of this function are unchanged. Under the proposed change, operability of the PAM instrumentation is not impacted. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will the proposed changes involve a significant reduction in a margin of safety?

The proposed change would delete instrument identification numbers and instrument ranges from Technical Specifications for certain PAM instrumentation. These details are not necessary to ensure the PAM instrumentation is maintained operable. The requirements of Technical Specification Limiting Condition for Operation and associated Surveillance Requirements are adequate to ensure the required instrumentation is maintained operable. The proposed change will not impact the ability of the PAM instrumentation to perform its intended function. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. David R. Lewis, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128.

NRC Section Chief: James W. Clifford.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 22, 2001 (ET 01–0007).

Description of amendment request: The amendment would delete the inequality (≤) in front of the allowed temperature value and increase the allowed methyl iodide penetration values in item c of Technical Specification 5.5.11, ''Ventilation Filter Testing Program (VFTP),'' for the engineered safety feature (ESF) control room emergency ventilation system and auxiliary/fuel building emergency exhaust ventilation system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes revise the allowable methyl iodide penetration percent for the carbon in the Control Room Emergency Ventilation System and the Auxiliary/Fuel Building Emergency Exhaust System when tested in accordance with ASTM D3803–1989. The proposed change is based on the values that would be derived using a safety factor of 2 between credited and tested carbon efficiencies. This use of a safety factor of 2 is discussed in Generic Letter 99–02. Generic Letter 99–02 allows the reduction of the safety factor between the credited and tested carbon efficiencies from 5 (for systems with heaters) and 7 (for systems without heaters) to 2 (for systems with or without heaters) when tested in accordance with ASTM D3803–1989. Analyses of design-basis accidents assume a particular charcoal filter adsorption efficiency when calculating offsite and control room operator doses. A test of the charcoal filter samples determines whether the filter adsorber efficiency is greater than that assumed in the design-basis accident analysis. The laboratory test acceptance criteria contain a safety factor to ensure that the efficiency assumed in the accident analysis is still valid at the end of the operating cycle. Because ASTM D3803–1989 is a more accurate and demanding test, the use of a safety factor of 2 provides an acceptable adsorption efficiency greater than that assumed in the safety analysis.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes revise the allowable methyl iodide penetration percent for the carbon in the Control Room Emergency Ventilation System and the Auxiliary/Fuel Building Emergency Exhaust System when tested in accordance with ASTM D3803–1989. The change in the allowable methyl iodide penetration percent is based on the values that would be derived using a safety factor of 2 as provided in Generic Letter 99–02. Generic Letter 99–02 allows the reduction of the safety factor between the credited and tested carbon efficiencies from 5 (for systems with heaters) and 7 (for systems without heaters) to 2 (for systems with or without heaters) when tested in accordance with ASTM D 3803–1989. No new or different accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of using a safety factor of 2 and deletion of the inequality sign associated with the temperature at which testing occurs.

Therefore, the proposed changes do not create a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The charcoal adsorber sample laboratory testing protocol accurately demonstrates the required performance of the adsorbers in the Control Room Emergency Ventilation System and the Auxiliary Building Emergency Exhaust System following a design basis accident or in the Fuel Building Emergency Exhaust System following a fuel handling accident. The change in safety factor and deletion of the inequality sign associated with the temperature at which testing occurs will not affect system performance or operation. This use [of] a safety factor of 2 is discussed in Generic Letter 99–02. Generic Letter 99–02 allows the reduction of the safety factor between the credited and tested carbon efficiencies from 5 (for systems with heaters) and 7 (for systems without heaters) to 2 (for systems with or without heaters) when tested in accordance with ASTM D3803–1989. Analyses of design-basis accidents assume a particular charcoal filter adsorption efficiency when calculating offsite

and control room operator doses. A test of the charcoal filter samples determines whether the filter adsorber efficiency is greater than that assumed in the design-basis accident analysis. The laboratory test acceptance criteria contain a safety factor to ensure that the efficiency assumed in the accident analysis is still valid at the end of the operating cycle. Because ASTM D3803–1989 is a more accurate and demanding test, the use of a safety factor of 2 ensures the charcoal filter adsorption efficiency is greater than that assumed in the safety analysis when the penetration acceptance criterion is met. The offsite and control room dose analyses are not affected by this change and will remain within the limits of 10 CFR 100 and 10 CFR 50, Appendix A.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Stephen Dembek.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

AmerGen Energy Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: August 29, 2000.

Brief description of amendment: The amendment revised the Technical Specifications to change the ''Administrative Controls'' section regarding certain position titles and the Shift Technical Advisor (STA) staffing requirement to allow one of the required on-shift Senior Reactor Operator (SRO) positions to be combined with the required STA position so as to serve in a dual SRO/STA position.

Date of Issuance: April 27, 2001.

Effective date: April 27, 2001 and shall be implemented within 30 days of issuance.

Amendment No.: 220

Facilit Operating License No.DPR–16: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 29, 2000 (65 FR 71133).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 27, 2001.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: April 26, 2000, as supplemented November 6, 2000.

Brief Description of amendments: The amendments change the Technical Specifications Ultimate Heat Sink maximum 24-hour average temperature from 89 degrees F to 90.5 degrees F and increase the lower temperature of the condition temperature range. In addition, they change a surveillance requirement to require verification that the temperature is less than or equal to 90.5 degrees F.

Date of issuance: April 20, 2001.

Effective date: April 20, 2001.

Amendment Nos.: 213 and 240.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 17, 2000 (65 FR 31356), superseded on March 21, 2001 (66 FR 15916). The November 6, 2000, supplement contained additional information that expanded the scope of the initial application. Subsequently, the supplemented application was renoticed.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 20, 2001.

No significant hazards consideration comments received: No.

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: December 7, 2000.

Brief description of amendment: The amendment changes the Technical Specifications regarding the Limiting Conditions for Operation for the containment cooling systems, the component cooling water system, and the service water system to be similar to changes to the ''Standard Technical Specifications, Combustion Engineering Plants,'' NUREG–1432, Revision 1, made by the Nuclear Energy Institute Technical Specifications Task Force Change Number 325, ''ECCS Conditions and Required Actions with < 100% Equivalent ECCS Flow.''

Date of issuance: May 3, 2001.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment No.: 199.

Facility Operating License No. DPR–20. Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 24, 2001 (66 FR 7677).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 3, 2001.

No significant hazards consideration comments received: No.

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: December 7, 2000.

Brief description of amendment: The amendment changes Technical

Specification (TS) 3.7.5 regarding the Limiting Conditions for Operation (LCOs) for the auxiliary feedwater system to be similar to changes to the ''Standard Technical Specifications, Combustion Engineering Plants,'' NUREG 1432, Revision 1, made by the Nuclear Energy Institute Technical Specifications Task Force Change Number 325, Revision 0.

Date of issuance: May 3, 2001.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment No.: 200.

Facility Operating License No. DPR–20. Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 24, 2001 (66 FR 7674).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 3, 2001.

No significant hazards consideration comments received: No.

Energy Northwest, Docket No. 50–397, Columbia Generating Station (formerly known as WNP–2), Benton County, Washington

Date of application for amendment: September 5, 2000, as supplemented December 14, 2000.

Brief description of amendment: The amendment revised Technical Specification (TS) Tables 3.3.5.1–1, 3.3.6.1–1 and 3.3.6.2–1. The changes add notes to the tables listing instrument channels that are common to, or support the operability of interrelated systems as governed by these technical specifications. Specifically:

(1) Added note ''(e)'' to Table 3.3.5.1–1, ''Emergency Core Cooling System Instrumentation,'' Functions 1c, 1d, 2c and 2d in the column entitled ''Required Channels Per Function,'' indicating the applicability of the new footnote which reads as follows: ''(e) Also supports OPERABILITY of 230 kV offsite power circuit pursuant to LCO 3.8.1 and LCO 3.8.2.''

(2) Added note ''(e)'' to Table 3.3.6.1–1, ''Primary Containment Isolation Instrumentation,'' in Functions 2b and 2c, in the column entitled ''Required Channels Per Trip System,'' indicating the applicability of the new footnote which reads as follows: ''(e) Also required to initiate the associated LOCA Time Delay Function pursuant to LCO 3.3.5.1.''

(3) Added note ''(c)'' to Table 3.3.6.2–1, ''Secondary Containment Isolation Instrumentation,'' in Functions 1 and 2, in the column entitled ''Required Channels Per Trip System,'' indicating the applicability of the new footnote which reads as follows: ''(c) Also required to initiate the associated LOCA Time Delay Function pursuant to LCO 3.3.5.1.''

Date of issuance: April 30, 2001.

Effective date: April 30, 2001, to be implemented within 30 days of the date of issuance.

Amendment No.: 172.

Facility Operating License No. NPF–21: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 15, 2000 (65 FR 69059).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 30, 2001.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: September 7, 2000, as supplemented on April 2, 2001.

Brief description of amendment: The amendment revises Technical Specification 3.7.3 to reflect planned modifications to the main feedwater system.

Date of issuance: April 18, 2001.

Effective date: April 18, 2001.

Amendment No.: 207.

Facility Operating License No. DPR–64: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 15, 2000 (65 FR 69062).

The April 2, 2001, submittal contained clarifying information only, and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 18, 2001.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: August 16, 2000.

Brief description of amendment: The amendment (1) removes the ''Offgas Treatment System Explosive Gas Mixing Instrumentation'' Technical Specification (TS) 3.7 from the Radiological Effluent Technical Specifications contained in Appendix B and adds a reference to the Offgas Treatment System Explosive Gas Monitoring Program to Administrative Section 6 of the TSs contained in Appendix A; (2) replaces the position title of Radiological and Environmental Services Manager contained in the Administrative Section 6 of Appendix A with Radiation Protection Manager; and (3) revises Plant Staff organization requirements contained in Administrative Section 6 to require either the Operations Manager or the Assistant Operations Manager to hold a Senior Reactor Operator license.

Date of issuance: April 18, 2001.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 270.

Facility Operating License No. DPR–59: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 20, 2000 (65 FR 56956).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 18, 2001.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: November 10, 2000, as supplemented by letters dated February 15 and March 22, 2001.

Brief description of amendment: The amendment changes the safety limit minimum critical power ratio (SLMCPR) for Cycle 12 operation with a mixed core of Siemens Power Corporation (now known as Framatome ANP Richland, Inc.) ATRIUM–10 reload fuel, and General Electric GE11 reactor fuel. The amendment reflects a decrease of the two recirculation loop SLMCPR from 1.09 to 1.08, with the single recirculation loop SLMCPR remaining unchanged at 1.10. The amendment also revises Technical Specification 5.6.5 to update the list of references that are currently used to determine core operating limits.

Date of issuance: April 26, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days of the date of issuance.

Amendment No: 146.

Facility Operating License No. NPF–29: The amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 27, 2000 (65 FR 81917).

The Commission's related evaluation of the amendment is contained in a

Safety Evaluation dated April 26, 2001. The February 15 and March 22, 2001, supplements did not change the scope of the amendment or the original proposed no significant hazards consideration determination.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: October 24, 2000, as supplemented on March 26, 2001.

Brief description of amendments: The amendments revise the technical specifications to reference the generically approved Westinghouse Best-Estimate large break loss of coolant accident methodology for the plants.

Date of issuance: April 18, 2001.

Effective date: April 18, 2001.

Amendment Nos.: 118, 118, 112 and 112

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revise the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 21, 2001 (66 FR 11052).

The March 26, 2001, letter provided clarifying information that did not change the scope of October 24, 2000, application or the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 18, 2001.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: July 5, 2000, as supplemented by letters dated November 27, 2000, December 21, 2000, January 31, 2001, February 20, 2001, February 28, 2001, March 26, 2001, April 5, 2001, and April 16, 2001.

Brief description of amendments: The amendments revise the licenses and technical specifications to reflect approval of an increase in maximum thermal power from 3411 megawatts-thermal (MWt) to 3586.6 MWt.

Date of issuance: May 4, 2001.

Effective date: May 4, 2001.

Amendment Nos.: 119, 119, 113 and 113.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revised the License and the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 13, 2000.

The supplements to the application provided clarifying information that did not change the scope of the July 5, 2000, application or the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 4, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket No. 50–389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application for amendment: November 17, 1999, as supplemented June 14, November 13, and December 4, 2000, and February 21, 2001.

Brief description of amendment: Increased the allowed outage time to restore an inoperable Emergency Diesel Generator to operable status from 72 hours to 14 days.

Date of Issuance: April 26, 2001.

Effective Date: Date of issuance, to be implemented within 60 days.

Amendment No.: 115.

Facility Operating License No. NPF–16: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 15, 1999 (64 FR 70089). The June 14, November 13, and December 4, 2000, and February 21, 2001, supplements did not affect the original proposed no significant hazards determination, or expand the scope of the request as noticed in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Dade County, Florida

Date of application for amendments: October 30, 2000, as supplemented February 28, 2001.

Brief description of amendments: The amendments revised Technical Specification 5.3.2 for Turkey Point Units 3 and 4 to extend the residual heat removal (RHR) pump allowed outage time (AOT) from 72 hours to 7 days to restore an inoperable RHR pump to operable status.

Date of issuance: April 25, 2001.

Effective date: Effective as of date of issuance, to be implemented within 60 days.

Amendment Nos. 212 and 206.

Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 27, 2000 (65 FR 81922). The February 28, 2001, supplemental letter provided clarifying information which did not change the proposed no significant hazards consideration determination or expand the scope of the request as noticed.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 25, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Dade County, Florida

Date of application for amendments: December 6, 2000.

Brief description of amendments: These amendments revised Technical Specification Surveillance Requirement 4.6.1.3.c to extend the interval for testing the containment air lock interlock mechanisms from 6 months to 24 months. Additionally, the amendments corrected an unrelated administrative error in TS Table 3.3–2, ''Engineered Safety Features Actuation System Instrumentation.''

Date of issuance: April 26, 2001.

Effective date: April 26, 2001.

Amendment Nos. 213 and 207.

Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 7, 2001 (66 FR 9385).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 26, 2001.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: October 16, 2000, as supplemented December 22, 2000.

Brief description of amendment: The amendment revises the TSs to incorporate new pressure and temperature (P-T) limit curves. The reactor pressure vessel P-T limit curves are updated for inservice leakage and hydrostatic testing, non-nuclear heatup and cooldown, and criticality. The revised P-T limit curves are approved for an interim period not to exceed September 1, 2003.

Date of issuance: April 30, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 238.

Facility Operating License No. DPR–49: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** December 13, 2000 (65 FR 77921).

The December 22, 2000, letter was within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 30, 2001.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket No. 50–323, Diablo Canyon Nuclear Power Plant, Unit No. 2, San Luis Obispo County, California

Date of application for amendment: June 2, 2000, as supplemented by letters dated December 15, 2000, and February 14, 2001.

Brief description of amendments: The amendment revised Technical Specification (TS) Section 3.5.2, ''ECCS—Operating,'' Action A to allow a one-time increase in the allowed outage time for centrifugal charging pump (CCP) 2–1 during Unit 2's Cycle 10 from 72 hours to 7 days. This change will allow for a potential on-line repair or a potential replacement of CCP 2–1. This pump is currently experiencing elevated vibration levels due to a structural resonance in the outboard bearing support structure and has been on an increased testing frequency since May 1996 due to high vibration.

Date of issuance: April 20, 2001.

Effective date: April 20, 2001, and shall be implemented within 30 days from the date of issuance.

Amendment No.: 146.

Facility Operating License No. DPR–82: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** July 12, 2000 (65 FR 43051).

The December 15, 2000, and February 14, 2001, supplemental letters provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 20, 2001.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant (DCPP), Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: November 30, 2000.

Brief description of amendments: The license amendments revised Technical Specifications (TS) Section TS 3.5.1, ''Accumulators'' to (1) reflect the values of the accumulator pressure and volume consistent with the analyses assumptions documented in the current DCPP Final Safety Analysis Report (FSAR) Update, and (2) align the DCPP TS with the standard TS for Westinghouse plants.

Date of issuance: May 3, 2001.

Effective date: May 3, 2001, and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1–147; Unit 2–147.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** December 27, 2000 (65 FR 81928).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 3, 2001.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit 2, Appling County, Georgia

Date of application for amendment: March 9, 2001.

Brief description of amendment: The amendment revises the Technical Specifications only until the Fall 2001 refueling outage and allows Mode 2 (startup) operation with two required intermediate range monitor channels per trip system.

Date of issuance: April 27, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 166.

Facility Operating License No. NPF–5: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** March 20, 2001 (66 FR 15768).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 27, 2001.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: March 17, 2000.

Brief description of amendments: The amendments revise Technical Specification (TS) 3/4.7.4, ''Essential Cooling Water System,'' to delete Surveillance Requirement 4.7.b.3, and to change Surveillance Requirements 4.7.4.b.1 and 4.7.4.b.2 to incorporate the wording from the Standard Technical Specifications for Westinghouse Plants (NUREG–1431). Surveillance Requirement 4.7.4.b.3 requires verifying at least once per 18 months that each screen wash booster pump and the traveling screen start automatically on a Safety Injection test signal. The Bases for TS 3/4.7.4 were also changed.

Date of issuance: April 30, 2001.

Effective date: The amendments are effective as of the date of their issuance.

Amendment Nos.: Unit 1—126; Unit 2—115.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** April 19, 2000 (65 FR 21039).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 30, 2001.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: November 18, 1999, as supplemented by letters dated November 29, 1999, and November 22, 2000.

Brief description of amendments: Changes to Technical Specifications surveillance testing to satisfy the actions requested in Generic Letter 99–02. The November 29, 1999, and November 22, 2000, letters provided additional clarifying information that was within the scope of the original application and **Federal Register** notice and did not change the NRC staff's initial proposed no significant hazards consideration determination.

Date of issuance: May 1, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1—127; Unit 2—116.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 29, 1999 (64 FR 73099).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 1, 2001.

No significant hazards consideration comments received: No.

TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: May 17, 2000, as supplemented by letters dated August 31, 2000, and January 31, 2001.

Brief description of amendments: The amendments revise the Allowable Values specified in Technical Specification (TS) Table 3.3.5–1, ''Loss of Power (LOP) Diesel Generator (DG) Start Instrumentation'' to ensure that the 6.9 kiloVolt and 480 Volt undervoltage relays initiate the necessary actions when required. In addition, a change is made to Condition D of TS 3.3.5, ''Loss of Power (LOP) Diesel Generator (DG) Start Instrumentation,'' to eliminate the term ''undervoltage.'' This change is consistent with a change to TS Table 3.3.5–1.

Date of issuance: April 20, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 85 and 85.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 21, 2001 (66 FR 15930).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 20, 2001.

No significant hazards consideration comments received: No.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: November 30, 2000, as supplemented by letters dated March 8 and 12, 2001.

Brief description of amendment: The changes revise the operability requirements for the refueling interlocks contained within TS 3.12.A as well as the surveillance requirements specified within 4.12.A. Clarifying changes are made to TS 3.12.D and 3.12.E to indicate that only the required interlocks need to be operable. In addition, TS 3.12.F will be clarified to articulate that there must be a minimum of 24 hours fission product decay prior to fuel handling. Some editorial changes were made in TS 3.12.B.

Date of Issuance: April 20, 2001.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 200.

Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 20, 2001 (66 FR 15770).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 20, 2001.

No significant hazards consideration comments received: No.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: November 27, 2000.

Brief description of amendment: The amendment eliminates the specifications associated with the 24 Vdc Emergency Core Cooling System (ECCS) instrumentation batteries and chargers. The 24 Vdc ECCS instrumentation loads will be transferred to the 125 Vdc main station batteries.

Date of Issuance: April 20, 2001.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 201.

Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 10, 2001 (66 FR 2024).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 20, 2001.

No significant hazards consideration comments received: No.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: November 1, 2000.

Brief description of amendment: The amendment revises the operability requirement for high pressure coolant injection (HPCI) and reactor core isolation cooling low steam line pressure isolation instrumentation to coincide with system operability requirements. The proposed change eliminates the need to open manual containment isolation valves under administrative control during reactor heatup, reduces the potential for operator error when closing these valves (potential for leaving valve mispositioned), and clarifies the steam line low pressure isolation function description. An administrative change to correct the HPCI High Steam Line d/p instrument component numbers was also made to ensure the accuracy of isolation instrumentation information.

Date of Issuance: April 20, 2001.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 202.

Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 13, 2000 (65 FR 77928)

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 20, 2001.

No significant hazards consideration comments received: No.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: December 19, 2000 as supplemented on February 13 and 23, 2001, and March 29, 2001.

Brief description of amendment: The amendment revises the Technical Specifications (TSs) by changing the reactor vessel pressure/temperature limit curves specified in TS 3.6.A.1, ''Reactor Coolant Systems—Pressure and Temperature Limitations,'' as graphically represented in Figures 3.6.1, Hydrostatic Pressure and Leak Tests, Core Not Critical, Figure 3.6.2, Normal Operation, Core Not Critical, and 3.6.3, Normal Operation/Core Critical.

Date of Issuance: May 4, 2001.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 203.

Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 24, 2001 (66 FR 7687).

The February 13 and 23, and March 29, 2001, supplements provided clarifying information that did not expand the scope of the application as published in the **Federal Register**, or change the proposed no significant consideration determination.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated May 4, 2001.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of application for amendment: June 22, 2000, as supplemented September 19, 2000, and January 4, February 14, March 13, March 22, and April 11, 2001.

Brief description of amendment: These amendments revise Technical Specification (TS) Figures 3.4–2 and 3.4–3, and the associated Bases. These amendments approve new pressure-temperature limits, low-temperature overpressure protection (LTOP) system setpoints, and LTOP system effective temperature (T_{enable}) in the TS to a maximum of 32.3 effective full-power years (EFPY) for Unit 1 and 34.3 EFPY for Unit 2. These changes were based, in part, on the use of the American Society of Mechanical Engineers Code Case N–641.

Date of issuance: May 2, 2001.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment Nos.: 226 and 207.

Facility Operating License Nos. NPF–4 and NPF–7: Amendments change the TS.

Date of initial notice in ***Federal Register:*** February 23, 2001 (66 FR 11334). The January 4, 2001, submittal expanded the scope of the original June 22, 2000, application, which was noticed at 65 FR 48760. The February 14, March 13, March 22, and April 11, 2001, supplements contained clarifying information only, and did not change the February 23, 2001, initial no significant hazards consideration determination or expand the scope of the **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 2, 2001.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland this 8th day of May 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–12192 Filed 5–15–01; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting; Board Votes To Close May 15, 2001, Meeting

At its meeting on May 7, 2001, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for May 15, 2001, in Washington, DC, in person and via teleconference.

MATTERS TO BE CONSIDERED:

1. Legal Update.
2. Strategic Planning.
3. Personnel Matters.
4. Compensation issues.

PERSONS EXPECTED TO ATTEND: Governors Ballard, Daniels, del Junco, Dyhrkopp, Fineman, Kessler, McWherter, Rider and Walsh; Postmaster General Henderson, Deputy Postmaster General Nolan, Secretary to the Board Hunter, and General Counsel Gibbons.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Requests for information about the meeting should be addressed to the Secretary of the Board, David G. Hunter, at (202) 268–4800.

David G. Hunter,

Secretary.

[FR Doc. 01–12477 Filed 5–14–01; 2:06 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44287; File No. 4–443]

Joint Industry Plan; Notice of Filings of a Proposed Options Listing Procedures Plan by the American Stock Exchange LLC, Chicago Board Options Exchange, Incorporated, International Securities Exchange LLS, The Options Clearing Corporation, Pacific Exchange, Inc., and Philadelphia Stock Exchange, Inc.

May 10, 2001.

I. Introduction

On January 11, 2001, pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 11Aa3–2 thereunder,[2] The American Stock Exchange LLC (''Amex''), Chicago Board Options Exchange, Incorporated (''CBOE''), International Securities Exchange LLC (''ISE''), The Options Clearing Corporation (''OCC''), Pacific Exchange, Inc., (''PCX''), and Philadelphia Stock Exchange, Inc. (''Phlx'') (collectively, the ''Sponsors'') filed with the Securities and Exchange Commission (''Commission'') a proposed options listing procedures plan (''OLPP'' or ''Plan'').[3] The Sponsors filed amendments to the proposed Plan on March 3, 2001 [4] and May 9, 2001.[5] Pursuant to Rule 11Aa3–2(c)(1) under the Act,[6] the Commission is publishing notice of, and soliciting comments on the proposed Plan, as amended.

II. Background

On September 17, 1991, the Commission approved the Joint-Exchange Options Plan (''JEOP''), which sets forth procedures governing the listing of new options.[7] The Amex, CBOE, PCX, Phlx, and New York Stock Exchange [8] were parties to the JEOP.[9] On September 11, 2000, the Commission instituted public administrative proceedings pursuant to Section 19(h)(1) of the Act [10] against, and simultaneously accepted offer of settlement from the Amex, CBOE, PCX, and Phlx (collectively, the ''respondent exchanges'').[11] Under the Settlement

[1] 15 U.S.C. 78k–1(a)(3)(B).

[2] 17 CFR 240.11Aa3–2.

[3] *See* Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934, dated January 11, 2001. The OLPP is available at the Commission's Public Reference Room.

[4] Letter dated March 2, 2001, from Claire P. McGrath, Vice President and Special Counsel, Amex, to Elizabeth King, Associate Director, Division of Market Regulation (''Division''), Commission (''Amendment No. 1''). Amendment No. 1 provided information required by Rule 11Aa3–2(b)(4) under the Act, 17 CFR 240.11Aa3–2(b)(4), regarding implementation of the proposed OLPP, the proposed OLPP's impact on competition, and written agreements or understandings among the Sponsors of the plan.

[5] Letter dated May 4, 2001, from Clair P. McGrath, Vice President and Special Counsel, Amex, to Elizabeth King, Associate Director, Division, Commission (''Amendment No. 2''). Amendment No. 2 would add procedures for new eligible exchanges to become Sponsors of the Plan and a provision for Sponsors that are no longer eligible to participate in the Plan.

[6] 17 CFR 240.11Aa3–2(c)(1).

[7] *See* Securities Exchange Act Release No. 29698 (September 17, 1991), 56 FR 48954 (September 25, 1991). The JEOP provides specific procedures governing the selecting, listing, challenging, and arbitrating the eligibility of new equity options overlying both exchange-traded an over-the-counter listed securities.

[8] The NYSE later sold its options business to the CBOE. *See* Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

[9] The parties filed, and the Commission approved the JEOP as identical proposed rule changes. The OLPP would not replace these rules. The parties would have to file proposed rule changes to amend their rules.

[10] 15 U.S.C. 78s(h)(1).

[11] *See* Order Instituting Public Administrative Proceeding Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions. Securities Exchange Act Release No. 43268 (September 11, 2000) (''Settlement Order''). The Settlement Order states that the respondent exchanges have

Order, the respondent exchanges were ordered to amend the JEOP to: (i) Eliminate the requirement that advance notice of the intention to list a new option be given to any other exchange, alternative trading system, or other trading venue that lists any options issued by the OCC; (ii) eliminate advance notice to any other market that already lists or has applied to list the option in question; (iii) eliminate any provisions of the JEOP that prevent a market from commencing to list or trade any option listed on another market or an option that another market has expressed an intention to list; (iv) eliminate any provisions of the JEOP allowing one market to prevent or delay another market from listing an option; and (v) eliminate any provisions of the JEOP that allow one market to delay the commencement of trading of an option by another market.[12]

On January 11, 2001, the respondent exchanges, along with the ISE and the OCC, submitted the proposed OLPP to the commission to replace and supersede the JEOP and to comply with the respondent exchanges' obligations under Section IV.B.a. of the Settlement Order. Although not parties to the Settlement Order, the ISE and the OCC have elected to become Sponsors of the proposed OLPP to facilitate the listing and trading of standardized options contracts.

III. Description of the OLPP

The proposed Plan would provide procedures for: (i) Listing and trading new options classes; (ii) selecting new options series; (iii) petitioning the OCC to review the eligibility, pursuant to the exchanges' listing standards, of a selected option class without delaying the trading of that option class; (iv) determining operational details for option contracts adjusted pursuant to OCC By-Laws; (v) admitting new sponsors; and (vi) losing eligibility to participate in the Plan. The proposed OLPP would eliminate the requirement that an exchange give advance notice of its intention to list a new or currently trading option class to any other options exchange that already lists or has applied to list the selected option.[13] The proposed OLPP also contains no provisions that would prevent or delay an exchange from commencing to list or trade any option class other than the one-day advance notice requirement to the OCC for operational purposes.

A. Selection of an Option Class

Under the proposed OLPP, a Sponsor that seeks to trade an option on an equity security (''Selecting Exchange'') would be required to submit a certificate notifying the OCC of its intention to trade the option. The Selecting Exchange would be required to submit the certificate between 12:01 a.m. and 11 a.m. (Chicago time) on the trading day before the exchange intended to start trading the option. If the option was not currently trading on another exchange, or had not been certified for listing and trading on another exchange, the Selecting Exchange would be required to provide certain additional information to the OCC when it submitted its certificate. The Selecting Exchange would be required to provide the options symbol, initial exercise prices, expiration cycle, and the position and exercise limits for the selected option class. If more than one Selecting Exchange submits a certificate indicating its intention to commence trading an options class, the OCC would use the information provided on the certificate that was submitted first. The OCC would provide all other Selecting Exchanges with this information, as well as the identity of other Selecting Exchanges, by 1 p.m. (Chicago time) on the day that it received the certificate.

If the option class had been previously certified and was currently trading on at least one registered options exchange, the OCC would notify all other exchanges that traded the option class and all Selecting Exchanges of the identity of each Selecting Exchange. The OCC would provide this notice by 1 p.m. (Chicago time) on the day that it received notification from the Selecting Exchange(s).

B. Selection of a New Option Series

The proposed OLPP would provide procedures for each of the Sponsors to trade additional series of an option class it currently trades. If an exchange decided to trade a new option series and began trading the new series on the same day, it would be required to notify the OCC, and any other exchange that also traded the same option class, within 10 minutes of commencing trading, under normal market circumstances. If the exchange decided to trade the new series on the next trading day or thereafter, it would be required to notify the OCC, and any other exchange that traded the same option class of the new series to be traded, by 4:15 p.m. (Chicago time) the day before the new series is to be traded.

If the addition of a new series would involve the introduction of new expiration months, different procedures would apply. First, the exchange would be required to provide a preliminary notification of the new expiration month for the series it intended to trade to the OCC and any other exchange that traded the same option class, by 9 a.m. (Chicago time) on the second day prior to expiration. Second, the exchange would be required to provide to the OCC and any other exchange that traded the same option class by 2 p.m. (Chicago time) on or before the trading day before the existing series' expiration a final notification of the new expiration month series it intended to trade. With respect to adding new option series and melding LEAP series into near-term series, the proposed OLPP would permit an exchange that wanted to trade a new series and any other exchange that traded the same option class to jointly determine, when necessary, the symbol and trading codes for the new series.

C. Petition To Review the Eligibility of a New Option Class

Under the proposed Plan, the Sponsors would be permitted to petition the OCC to review whether an option class was eligible for listing on the day a Selecting Exchange certified the option for listing and trading. The exchange listing and trading the option class would be permitted to continue to do so unless and until the OCC determined that the class was ineligible. An exchange that wished to challenge the eligibility of an option class would be required to submit a petition to the OCC, setting forth the listing standards or guidelines the petitioning exchange was requesting the OCC to review, by 3 p.m. (Chicago time) on the date that the option class began trading. The OCC would be required to then provide a copy of the petition to the Selecting Exchange by 4 p.m. (Chicago time). Both exchanges would be required to submit written support for their claims of eligibility or ineligibility to the OCC by 3 p.m. (Chicago time) on the second day that the option class had been trading.

The OCC would endeavor to complete its review and notify the Sponsors of its determination by 4 p.m. (Chicago time) on the third day that the option class

significantly impaired the operations of the options markets by, among other things, refraining from multiply listing a large number of options.

[12] *See* Section IV.B.a. of the Settlement Order. The Settlement Order requires an exchange to provide to the OCC (i) not more than one business day's notice of the exchange's intent to list an existing option, and (ii) reasonable advance notice of the exchange's intention to list a new option. *Id.*

[13] However, the proposed OLPP would include a provision that allows an exchange to provide the OCC with not more than one business day's notice of an exchange's intention to list an existing options class. Further, under the proposed OLPP, the Sponsors would communicate with each other only indirectly, through the OCC.

had been trading.[14] If the OCC determined that the option class was ineligible, the Selecting Exchange would be required, on the first trading day after the OCC's determination, to delist any option series without open interest and allow only closing transactions in any series with open interest. If the option class subsequently became eligible, any exchange would be permitted to submit a certificate to the OCC to list and trade the option class.

D. Adjustments Pursuant to OCC By-Laws

The OCC's By-Laws permit a securities committee composed of representatives from each registered options exchange trading options on a particular security to determine whether to make adjustments to reflect particular events affecting the underlying security, as well as operational issues attendant to the adjustment.[15] Events affecting the underlying security that may require an adjustment would include, among other things, stock dividends or distributions, stock splits, rights offerings, mergers, and reorganizations. The proposed OLPP would permit the Sponsors to make these adjustments, as well as determine operational issues in connection with such adjustments.

E. New Plan Sponsors

The proposed OLPP contains a self-effecting provision for the addition of new sponsors, in which an Eligible Exchange would be able to become a sponsor of the Plan by: (i) Executing a copy of the Plan; (ii) providing each then-current Plan Sponsor with a copy of such executed Plan; and (iii) effecting an amendment to the Plan reflecting the addition of the new sponsor's name.[16] An Eligible Exchange would be defined as a national securities exchange registered with the Commission in accordance with Section 6(a) of the Act that: (i) Has effective rules for the trading of option contracts issued and cleared by OCC approved in accordance with the provisions of the Act and the rules and regulations thereunder; and (ii) is a party to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (the ''OPRA Plan'').

F. Loss of Eligibility

An exchange would no longer be an Eligible Exchange when it ceased trading OCC issued and cleared option contracts, or, if it had become a Plan sponsor and had not commenced to list and trade OCC issued an cleared option contracts, within one year of becoming a Plan Sponsor.

G. Implementation of the OLPP

The Sponsors of the proposed Plan intend to implement the Plan immediately upon approval by the Commission. The Sponsors do not believe that development, implementation, or pilot phases are necessary for the operation of the OLPP.

H. Impact on Competition

The Sponsors represent that the proposed OLPP would: (i) Facilitate the orderly introduction of new equity options; (ii) ensure that there is a mechanism in place to ensure that only eligible securities are selected for options trading; (iii) ensure the continued fungibility of multiply-trade option classes; (iv) allow the options exchanges to list new options as soon as possible to reap the benefits of their research efforts; and (v) minimize investor confusion.

The Sponsors note that the Plan does not require advance notice to any options exchange of an intention to list a new options class (except for not more than one business day's notice to any options exchange that already lists or has applied to list the selected option class) or prevent or delay an options exchange from commencing to list or trade any option class. The Sponsors state that the OLPP would facilitate the orderly and fair introduction of new options and prevent unnecessary confusion among member firms in deciding where to direct their order flow by standardizing the process for listing option classes.

Additionally, the proposed Plan would provide procedures for the selection of new option series and for the determination of operational details for option contracts adjusted pursuant to OCC By-Laws. The Sponsors represent that these procedures are necessary for the fair and orderly trading of multiply-listed option classes. The Sponsors state that the listing and trading of the same option series on two or more exchanges trading that option class requires uniformity and standardization of operational procedures, including uniform trading symbols, trading codes, and contract terms. The Sponsors further state that consistency is necessary for fully effective multiple trading, maintaining the fungibility of option contracts, efficient order routing decisions by member firms, and investor expectations that orders be routed and executed quickly at the exchanges that offer the potential for best execution. While the Plan would not require exchanges multiply-trading a particular option class to trade all series listed by the other exchanges trading the same class, it would provide a means of notification through the OCC of the series to be traded by each exchange. Such notification would give the other exchanges trading that class the ability to add the quotations for such new series into their calculation of the national best bid and offer on the date the new series began trading.

I. Description of Written Understandings or Agreements

The Sponsors represent that they have not entered into any understandings or agreements, written or otherwise, relating to interpretations of the proposed Plan or conditions for becoming a sponsor or participant in the Plan.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed plan, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549–0609. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal offices of the Sponsors of the proposed OLPP. All submissions should refer to the File No. 4–443 and should be submitted by June 16, 2001.

[14] The OCC would be entitled to take five additional days to complete its review if it notified both exchanges of the additional time needed.

[15] *See* Article VI, Section 11 of the OCC By-Laws. Operational issues attendant to the adjustment could include option symbols and trading codes, contract multipliers, and position and exercise limits applicable to the adjusted option class.

[16] An amendment to the Plan may be effected by a new Eligible Exchange executing a copy of the Plan, as then in effect (with the only change being the addition of the new Plan Sponsor's name in Section 9 of the Plan) and submitting such executed Plan to the SEC. Such amendment will be effective when it has been approved by the SEC or otherwise becomes effective pursuant to Section 11A of the Act and Rule 11Aa3–2 thereunder.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12250 Filed 5–15–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44286; File No. SR–Amex–2001–22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Amendments to Fee Schedules

May 9, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and rule 19b–4 thereunder,[2] notice is hereby given that on April 9, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change, and amended such proposed rule change on May 3, 2001,[3] as described in Items I, II, and III below, which Items have been prepared by the Amex. The Amex has designated this proposal as one constituting the establishment or change of a due, fee or other charge imposed by the Amex under Section 19(b)(3)(A)(ii) of the Act[4] and Rule 19b–4(f)(2),[5] which renders the rule effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend the Amex Member Fees Schedule; Floor Fees Schedule; Booth Rental and Order Pads Schedule; and CFD and IDC Fees Schedule. The text of the proposed rule change is available at the Office of the Secretary, the Amex, and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex proposes to amend certain Exchange fees imposed on Amex members and member organizations as set forth below.

(1) Member Fees:

The Exchange incurs certain expenses in connection with the administering applications for Exchange membership. In order to better align Amex's fees with the actual costs of delivering these services, the Exchange is increasing from $500 to $2,000 the fee for processing membership applications. In addition, the Exchange is imposing a $500 fee for each qualifying exam taken by an applicant for membership beyond the first attempt. These fees will be imposed beginning May 1, 2001.

(2) Floor Fees:

The Exchange is eliminating the current $500 annual Specialist Post Privilege Fee, which is imposed on each individual specialist, and will impose a new annual post fee per podium of $750 beginning July 1, 2001. This fee will be increased to $1,000 for each podium beginning January 1, 2002. These new fees better reflect the maintenance costs borne by the Exchange.

To improve reliability, the Amex recently replaced its wireless telephone system with a SpectraLink system.[6] The new annual charge for all wireless handsets will be phased in as follows: $1,700 per handset from July 2, 2001 to June 30, 2002 and $2,100 per handset beginning July 1, 2002.

The Amex has recently upgraded its booth telephones from an 18-button turret system, for which it charged $600 per year to a new 40-button system. The new annual charge for all turret telephones will be phased in as follows: $900 per telephone from July 1, 2001 to June 30, 2002 and $1,290 per telephone beginning July 1, 2002.

The Amex has incurred significant development and installation expenses in implementing its Booth Automated Routing System (''BARS'') for routing orders to and within the Exchange and will also incur significant annual operation costs. The Exchange is imposing its BARS annual equipment fees of $3,600 per configuration of up to ten hand-held devices, one keyboard, one Central Processing Unit (''CPU''), one monitor, and one printer, with users retaining liability for the cost of any damage, loss, or repairs. These fees will be implemented beginning May 1, 2001.

In order to address security risks that may be associated with loss of photo identification cards used on the Floor, the Exchange is increasing the fee to replace lost photo identification cards from $15 to $100, beginning May 1, 2001. This fee also better reflects Exchange costs associated with card replacements.

For construction and craft services provided by the Exchange at any member's request, the Exchange will charge $50.00 per worker per hour for work performed 8 a.m.–6 p.m. New York time only on the days the Exchange is open for business and $75.00 per hour for worked performed at all other times. These charges serve to eliminate an Exchange subsidy for such services.

(3) Booth Rentals:

The Exchange is restructuring and simplifying annual booth rental charges on a phased in basis as follows:

Booth type	New fees as of July 1, 2001	New fees as of July 1, 2002	Former fees
Type 1 (''telephone'')	$3,000	$3,500	$1,600–$2,200.
Type 2 (24 ''standard'')	4,500	4,500	Not applicable.
Type 3 (36 ''standard'')	6,000	6,000	Not applicable.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 substituted the words ''Membership Registration'' for ''CRD'' in the CRD and IDC Fee Schedule in Exhibit A of the original rule filing. *See* letter from Michael Cavalier, Associate General Counsel, the Amex, to Katherine England, Assistant Director, Division of Market Regulation, the SEC (May 3, 2001).

[4] 15 U.S.C. 78s(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

[6] The SpectraLink system is a system of wireless phones used by members on the floor for communication on the trading floor. Telephone conversation between Cyndi Nguyen, Attorney, the SEC, and Michael Cavalier, Associate General Counsel, the Amex (April 26, 2001).

Booth type	New fees as of July 1, 2001	New fees as of July 1, 2002	Former fees
Type 4 (''machine'')	6,000	7,000	$5,000–$5,400.

The revised fee schedule is designed to provide partial recovery by the Exchange of costs associated with constructing and maintaining booth rental space.

(4) Membership Registration and IDC Fee Schedule:

The Exchange is amending its fee schedule, effective May 1, 2001, applicable to membership registration to bring such charges in line with those of other exchanges. Renewal fees will be raised from $30 to $47, initial fees will be raised from $55 to $60, and termination fees will be raised from $25 to $30.

2. Statutory Basis

The Amex believes the proposed rule change is consistent with the provisions of section 6(b) of the Act [7] in general, and furthers the objectives of section 6(b)(4) of the Act [8] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among members, issuers, and other persons using Exchange facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [9] and subparagraph (f)(2) of Rule 19b–4 thereunder [10] because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR–Amex–2001–22 and should be submitted by June 6, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12281 Filed 5–15–01; 8:45 am]

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[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44289; File No. SR–CHX–2001–09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc., To Allow Floor Brokers To Clear a Specialist's Post By Telephone

May 10, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 23, 2001, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities Exchange Act Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

1. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CHX Article XX, Rule 10 to permit floor brokers to clear a specialist's post telephonically. The text of the proposed rule change is below. Proposed additions are in italics. Proposed deletions are in brackets.

ARTICLE XX, RULE 10

Manner of Bidding and Offering

Rule 10. Bids and offers to be effective must be audibly made at the post and shall remain in full force until the person making the bid or offer shall audibly announce that he is out of the market or until he leaves the post.

* * * Interpretations and Policies: .01 Although there may be certain amount of negotiation by voice away from the post, every trade must be consummated at the post. .02 Clearing the Post.

Policy. All orders received by floor brokers or originated by market makers on the floor of the Exchange must effectively clear the post before the orders may be routed to another market[, either] via the ITS [System] or through the use of alternative means.

Floor brokers who receive an order on the floor have a fiduciary responsibility to seek a best price execution for such order. This responsibility includes clearing of the Exchange's post prior to routing an order to another market so that other buying and selling interest at the post can be checked for a potential execution *equal to* [that may be as good as] or better than the execution available in another market. *It is not inconsistent with a floor broker's fiduciary responsibility to effectively clear the post telephonically, provided that: (i) through the specialist, the floor broker probes the market for other buying and selling interest at the post, and (ii) after probing the market, if equal or better buying or selling interest is available at the post, the floor broker, while physically present at the post, consummates the trade at the post.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 U.S.C. 240.19b–4.

Market makers are required to provide depth and liquidity to the Exchange market, among other things. Exchange Rules require that all market maker transactions constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market. In so doing, market makers must adhere to traditional agency auction market principles on the floor. Transactions by Exchange market markers on other exchanges, which fail to clear the Exchange post, do not constitute such a course of dealings.

Notwithstanding the above, it is understood that on occasion a customer will insist on special handling of a particular order that would preclude it from clearing the post on the Exchange floor. For example, a customer might request that a specific order be given primary market execution. These situations must be documented and reported to the Exchange. Customer directives for special handling of all orders in a particular stock or all stocks, however, will not be considered as exceptions to the clearing the post policy.

All executions resulting from bids and offers reflected on Instinet terminals resident on the Exchange floor constitute ''orders'' which are ''communicated'' to the Exchange floor. Therefore, all orders resulting from interest reflected on Instinet terminals on the Exchange floor must be handled as any other order communicated to the floor. All such orders must be presented to the post during normal trading hours. All trades between Instinet and Exchange floor members are Exchange trades and must be executed on the Exchange.

Method of Clearing the Post. Subject to Article XX, Rule 11 relating the cabinet securities, the Exchange's *general* clearing the post policy requires [the] floor brokers *and* [or] market makers to be physically present at the post, *but permits floor brokers, as a means of clearing the post, to telephonically probe a market through the specialist in order to more efficiently fulfill their fiduciary responsibility to seek a best price execution for their customer orders.* A market maker, after requesting the specialist's market quote, must bid or offer the price and size of his intended interest at the post. A floor broker must clear the post be requesting a market quote from the specialist. If the specialist or any other member who has the post indicates an interest to trade at the price that was bid or offered by the market maker or the price of the floor broker's order (even through that order has not yet been bid or offered), then the trade may be consummated with the specialist (or whomever has the post) in accordance with existing Exchange priority, parity and precedence rules. If the specialist (or any other member who has the post) indicates interest to trade at that price but the member communicating the intended interest, including Instinet interest, determines not to consummate the trade with the specialist or such member, then, to preserve the Exchange's existing priority, party and precedence rules, the trade may not be done with any other Exchange floor member. (See Article XXX, Rule 2). If the trade is consummated with the specialist or other member who has the post, the specialist (or any customer represented by the specialist) is not required to pay any fees to the broker or market maker in connection with the execution of the order, unless such fee is expressly authorized by an Exchange Rule. If the specialist does not indicate an interest to trade, then the trade may be consummated with another Exchange floor member on the Exchange floor with a resultant Exchange print. Failure to clear the post result in a ''trade-through'' or ''trading ahead'' of other floor interest. In addition, failure to properly clear the post may result in a violation of the Exchange's Just and Equitable Trade Principles Rule (Article VIII, Rule 7) and a market maker rule that requires all market maker transactions to constitute a course of dealing reasonably calculated to contribute to the maintenance of a fair and orderly market (Article XXXIV, Rule 1). Failure to properly clear the post may also subject *members* [the violator] to a *fine* [minor rule violation] under the Exchange's Minor Rule Violation Plan.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend CHX Article XX, Rule 10 to allow floor brokers to clear a specialist's post by phone. Under the Exchange's current rules, physical presence at a specialist's post is the only satisfactory method to clear the post before executing an order on the floor with another member or transmitting an order to another market center for execution via the Intermarket Trading System or through other means. The Exchange believes that permitting floor brokers, while on the CHX floor, to telephonically clear a specialist's post—for the purpose of determining the presence of other buying and selling interest on the CHX—would expand the manner of probing the CHX market in a faster, more efficient way while continuing to satisfy the rule's purpose. This change also will permit floor brokers to more efficiently fulfill their fiduciary obligations to seek the best available price in the national market for their customers' orders.

The proposed rule does not place any absolute responsibility on specialists to permit floor brokers to clear a post by phone, but allows specialists to require floor brokers to come to the post if there is an active crowd or if the specialist is too busy to probe the market. Under the proposed rule, all trades must nevertheless continue to be consummated at the post.

2. Statutory Basis

The Exchange believes that the proposed rule is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and with the requirements of section 6(b).[3] In particular, the Exchange believes the proposed rule is consistent with section 6(b)(5) of the Act[4] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the CHX consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–2001–09 and should be submitted by June 6, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12280 Filed 5–15–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44282; File No. SR–GSCC–2001–01]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to the Redesign of Comparison Rules

May 8, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), notice is hereby given that on January 16, 2001, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') and on April 11, 2001,[1] amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow GSCC to redesign its comparison rules in order to implement real-time interactives services.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In a white paper distributed to all members in early 1997, GSCC outlined its long-range plans to provide straight-through processing and a point-of-trade guarantee to its members primarily through the implementation of real-time interactive services. Last year, GSCC announced that it would implement its interactive services in three phases. Phase 1 will introduce interactive messaging to support real-time comparison; phase 2 will introduce interactive messaging to support netting; and phase 3 will introduce support of same-day settlement of repo start legs.

During the latter part of 2000, GSCC implemented the necessary technical changes to its automated system to implement the first phase of its interactive processing service (*i.e.*, making available the interactive messaging facility to support real-time comparison). Up until this point, GSCC's processing experience has been essentially batch. Members now have the ready ability, from a technological perspective, to submit trade input on an automated basis to GSCC intraday as trades are executed. While GSCC will continue to support its existing batch input and output facilities initially, it plans to eventually stop supporting these older formats. Members will be encouraged to make the shift from batch to interactive processing as soon as it is feasible for them to do so. At some point in time, once a sufficient nucleus of members has begun processing interactively, GSCC will implement disincentives to discourage members from continuing to submit and receive data via the old batch formats.

Concurrent with this development, GSCC has been redesigning its matching and comparison procedures to better meet the needs of its members during their transition from a batch on an interactive environment. This redesign is the subject of this rule filing. GSCC's central goal in this redesign is to provide straight-through processing by allowing for the easy identification and resolution of trades intraday to achieve 100 percent comparison. GSCC believes that interactive messaging and enhanced real-time trade matching processing are critical steps in helping to reduce risk by ensuring that more transactions are compared earlier in the day and then eventually also netted and guaranteed through GSCC so that intraday credit exposure to counterparties is minimized.

In the current environment, most trades are compared within the GSCC system as a result of bilateral comparison with the exception being certain locked-in trades, such as members' Federal Reserve auction purchases. To facilitate real-time comparison while still providing members with the flexibility to transition from batch to interactive submission according to a timeframe suitable to their own needs and resources, GSCC is proposing to: (i) Amend its rules to provide for three types of trade comparison: (a) Bilateral comparison, (b), demand comparison, and (c) locked-in comparison and (ii) make certain other related rules changes as further discussed below.

Bilateral Comparison

Bilateral comparison, which is the traditional method of comparison, will continue to require that the two trade counterparties (or if one or both of the counterparties are not GSCC members, the members acting on their behalf) submit trades to GSCC in which certain mandatory details either match or fall within predefined parameters to effect a match. Bilateral comparison will remain the primary comparison type for dealer-to-dealer trades and will be available in both real-time and batch. Members may elect to submit interactively regardless

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[5] 17 CFR 200.30–3(a)(12).

[1] Letter from Nikki M. Poulos, Vice President and Associate General Counsel, GSCC (April 10, 2001). Subsequent to filing GSCC–2001–01, GSCC filed a rule proposal (SR–GSCC–2001–02) that became immediately effective under Section 19(b)(3). The letter states that GSCC–2001–02 amends rules previously listed by GSCC–2001–01 in Exhibit A and that both rule filings are consistent with each other. The amendment does not amend any language in GSCC–2001–01 as originally filed with the Commission and as presented herein.

[2] A copy of the text of GSCC's proposed rule change and the attached exhibits are available at the Commission's Public Reference Section or through GSCC.

of whether their trade counterparties do so.

A new feature of bilateral comparison will be the ability for members to ''DK'' any trades they ''do not know.'' The proposed rule change introduces the term ''DK Notice'' to GSCC's rules. If a member determines that a request for comparison is invalid or incorrect, it can send a DK notice to GSCC which will be forwarded to the original submitter. The receipt of the DK notice by GSCC will prevent the trade from comparing in GSCC's system. If a member that sent a DK notice determines that it did so erroneously, the member will be able to remove the DK and enable comparison to occur if it does so within the timeframes prescribed by GSCC for such purpose.

Demand Comparison

Demand comparison is a new type of comparison that has been designed to provide members with flexibility and control over the comparison process for trades executed via intermediaries. Demand comparison strikes a balance between bilateral comparison, where the member is required to submit trade data in order for its trade to compare, and locked-in comparison (discussed in more detail below), where the trade has essentially been operationally compared before being submitted to GSCC.

Demand trades will be submitted by approved intermediaries (*e.g.*, brokers) which will be called ''demand trade sources.'' Demand trade sources must be able to communicate with GSCC interactively. In order for GSCC to accept trades from a demand trade source on a member's behalf, the member must provide GSCC with prior written authorization. The intermediary must also be approved and authorized by GSCC to be a demand trade source.

GSCC will deem a demand trade compared upon receipt of the trade data from the demand trade source. However, if a member does not know a trade submitted on its behalf by a demand trade source, the member will be able to submit a DK notice to GSCC. The receipt of a DK notice by GSCC will cause the demand trade to no longer be eligible for comparison. If a member that sent a DK notice determines that it did so erroneously, the member will be able to remove the DK and enable comparison to occur if it does so within the timeframes prescribed by GSCC for such purpose.

GSCC is making incidental rules changes to Rules 11, 16, 18, 21, 22, and 39 to take into account the introduction of demand trades.

Locked-In Comparison

Locked-In Comparison will be similar to that currently provided for in GSCC's rules. Locked-In Comparison presumes that a member would elect not to submit corresponding trade details to affect a match because the trade has been precompared by the trade source. An example of a trade appropriate for locked-in comparison would be one executed through a ''pure'' electronic trading system that is terminal-driven and that exercises no discretion over the trade.

In order to participate, the locked-in trade source must be authorized by both the members on whose behalf it will be submitting trade data and by GSCC. With the exception of some current locked-in sources, such as the Federal Reserve banks, locked-in trade sources will be expected to communicate with GSCC.

Locked-In trades will be deemed compared upon receipt by GSCC. The DK feature will also be available for locked-in trades. However, unlike in the case of demand trades, a DK of a locked-in trade will be treated by GSCC as a request for cancellation to the locked-in trade source. In order to actually cancel the trade on GSCC's system, the locked-in trade source will have to respond to the request by submitting a trade cancellation. The locked-in trade source can modify the trade in response to a DK notice in order to remove the trade's DK status.

Submission Methods

In order to set forth the concept of a member submitting interactively versus submitting in one of the batch modes, GSCC is proposing to add three new definitions to its rules: ''interactive submission method,'' ''multiple batch submission method,'' and ''single batch submission method.'' The proposed rules changes make clear which submission type is required for each type of comparison.

In addition, GSCC is proposing to add a definition of ''real time'' in its rules to be used to indicate when a particular process (*e.g.,* the enhanced comparison processes set forth in Rule 10) will be performed by GSCC in real time as opposed to at the end of day.

Submission of Full-Sized Trades

GSCC is also proposing to permit members to submit full-sized trades. Currently, non-GCF Repo trades are submitted in $50 million increments. Because members' internal systems tend to reflect the full size of each trade (as opposed to the pieces that they submit to GSCC), the submission of full-sized trades will permit members to better reconcile their trading activity. GSCC recognizes that not all members will be able to begin processing full-sized trades immediately. Therefore, GSCC will not require that members exercise this option.

Timing of Key Processes of GSCC

GSCC's key processes are comparison, netting, novation, and guaranty of settlement. GSCC is proposing to change the timing of two of these processes (comparison and guaranty of settlement).

With respect to the timing of comparison, GSCC's rules currently provide that it occurs when GSCC makes its comparison output available to members. The proposed rule filing provides that, while comparison will continue to occur upon issuance of the comparison message by GSCC with respect to trades submitted for bilateral comparison, it will be deemed to occur upon receipt of trade data from the authorized trade source with respect to trades submitted for demand comparison and locked-in comparison.

With respect to the timing of netting, GSCC's rules currently provide that this occurs upon issuance of the report of or output on net settlement positions by GSCC. This will continue to be the case. Similarly, GSCC's rules currently provide that novation, the process by which GSCC becomes the substituted counterparty to trades submitted to it, occurs upon the issuance of the report of or output on net settlement positions by GSCC. This will also remain unchanged.

With respect to the timing of GSCC's guaranty of settlement, GSCC's current rules provide that GSCC guarantees the settlement of a netting-eligible trade upon issuance of the report/output that sets forth the member's net settlement position. The exception to this rule is GSCC's policy of guaranteeing blind brokered repos entered into in good faith upon trade execution.[3]

The proposed rule changes will move the timing of GSCC's guaranty to the point of comparison. This means that a netting-eligible trade submitted for bilateral comparison will be guaranteed upon issuance of the comparison message by GSCC and that a netting-eligible trade submitted for demand or

[3] GSCC adopted its policy of guaranteeing blind brokered repos entered into in good faith upon trade execution in order to comfort dealers that have intraday credit exposure to brokers through whom they execute such transactions. The policy only applies to such transactions that are entered into in good faith, which means, for example, that GSCC would not honor it in the event that a dealer entered into a transaction knowing that the counterparty was insolvent.

locked-in comparison will be guaranteed upon receipt of trade data from the authorized trade source. if a trade is DKed (and with respect to a locked-in trade, canceled by the locked-in trade source), GSCC's guaranty will no longer be in effect with respect to that trade. As a transition measure that recognizes that members may need some time to switch to interactive processing, GSCC is proposing that it maintain its policy of guaranteeing blind brokered repo trades entered into in good faith upon trade execution through the year 2001.

General Responsibilities of Members

GSCC's comparison rule contains a provision that requires members to review documents that they receive from GSCC.[4] GSCC desires to expand the provision to cover any type of communication provided to members by GSCC and require members to inform GSCC promptly, but in no event later than ten calendar days after receipt of the communication, if there is any error, omission or other problem with respect to the communication.[5] GSCC's netting rule contains a similar provision with respect to which GSCC has proposed to add the ten-day requirement.[6] GSCC believes that the ten-day timeframe will provide members with a sufficient amount of time within which to detect problems in a communication from GSCC.

Amendments to Schedules

GSCC is proposing incidental changes to certain of its Schedules for clarification purposes and to bring them into conformity with the proposed rules changes discussed above. Specifically, GSCC is expanding the output time slot in its ''Schedule of Timeframes'' from ''midnight to 2 a.m.'' to ''8 to 2 a.m.'' This change reflects the fact that GSCC may be able to provide certain output earlier given the implementation of real-time trade matching and also the recent shift to the 8 p.m. trade submission deadline.

GSCC is also proposing additional amendments to the Schedule of Timeframes in order to update it to reflect actual practice. Specifically, funds-only settlement payments are due to GSCC at 10 a.m. (currently at 9 a.m.) and funds-only settlement payments are due from GSCC at 11 a.m.). GSCC has proposed clarifying language to indicate that the 10:30 a.m. deadline for satisfaction of a clearing fund deficiency call is approximate because members have two hours after a call is made to fulfill their obligation.

GSCC is also updating its ''Schedule of Required Match Data,'' ''Schedule of Required Data Submission Items,'' and its ''Schedule of Required Data Submission Items for a Right of Substitution'' to make clear that the only locked-in trades to which those schedules do not apply are Treasury/Federal Reserve auction purchases and GCF repo transactions.

GSCC is also amending its fee structure to set fees for demand trades which will be the same as those currently imposed on locked-in trades.

The proposed rules changes are consistent with the requirements of the Act and rules and regulations thereunder because they will help to eliminate risk by promoting a higher rate of comparison and ensuring that more transactions are compared on a more timely basis, and then eventually netted and guaranteed through GSCC.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rules changes will have an impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule changes have not yet been solicited or received. Members will be notified of the rule change filing and comments will be solicited by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR–GSCC–2001–01 and should be submitted by June 6, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12251 Filed 5–15–01; 8:45 am]

BILLING CODE 8010–01–M

[4] GSCC proposed revised Rule 5, Section 5 will state: ''Each Member shall promptly review each Report it receives from the Corporation pursuant to this Rule. Any errors, omissions, or similar problems noted by a Member with respect to a Report must be promptly reported to the Corporation, but such reporting to the Corporation shall be made no later than ten calendar days after the receipt of the Report.''

[5] In its rules, GSCC requires its members to review reports received from GSCC. In its Rule 1, ''Definitions,'' GSCC defines the term ''report'' as follows: ''The term Report means any document, record, or other output prepared by the Corporation and made available to a Member in any format (including, but not limited to, machine-readable and print-image formats) or medium (including, but not limited to, print copy, magnetic tape, video display terminal, and CPU-to-CPU interface formats) that provides information to such Member with regard to the services provided by, or the operations, of, the Corporation.''

[6] GSCC proposed revised Rule 11, Section 12 will state: ''The Netting member shall inform the Corporation after the occurrence of any event specified above; provided however, that the Netting Member shall inform the Corporation no later than ten calendar days after receiving a Report described in subsection (b) above.''

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44278; File No. SR–SCCP–2001–05]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Eliminating Certain Specialist Fees, Discounts, and Credits

May 8, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 2, 2001, the Stock Clearing Corporation of Philadelphia (''SCCP'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by SCCP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends SCCP's fee schedule by eliminating certain equity floor specialist fees, discounts, and credits for transactions with orders entered before the opening of trading on PACE.[2] Under the proposed rule change, certain trade recording and value fees are eliminated. The proposed amendment also eliminates volume related discounts given to specialists for trades cleared through a SCCP margin account as well as a $.20 credit per specialist trade on PACE.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

In its filing with the Commission, SCCP included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. SCCP has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to eliminate certain specialist fees, discounts, and credits which pertain to trades that a specialist executes on PACE on the opening.

Presently, orders entered in the PACE system prior to the opening which are executed on the opening are subject to the following SCCP fees and credits: (1) Trade recording fees; (2) value fees; (3) specialist discounts for trades cleared through a SCCP margin account; and (4) a PACE specialist credit of $.20. The proposed rule change eliminates the above charges and credits in relation to orders entered on PACE before the opening which were executed by the specialist and not matched automatically by PACE.[4]

In some instances, where PACE cannot match a buy and sell order, the specialist is responsible for their independent execution and fees. The proposed rule change eliminates the transaction fees imposed by the Philadelphia Stock Exchange in the above circumstances which affect specialists with orders on the opening that are not executed automatically through PACE. SCCP believes that the proposed rule change will enable the specialist to continue to provide the market with prompt execution of orders that require his intervention without the additional burden of a transaction fee. SCCP states that a more affordable, fair, and competitive market for specialists should encourage the specialists' efforts in attracting more order flow which in turn should promote a more liquid market. SCCP intends to implement the proposed rule change effective May 1, 2001.

For these reasons, SCCP believes that the proposed rule change is consistent with section 17A(b)(3)(D) of the Act[5] which requires that the rules of a registered clearing agency provide for equitable allocation of reasonable dues, fees, and other charges for services which it provides to its participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

SCCP does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by SCCP, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[6] and Rule 19b–4(f)(2) thereunder.[7] At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at SCCP. All submissions should refer to the File No. SR–SCCP–2001–05 and should be submitted by June 6, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12279 Filed 5–15–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] PACE is the Philadelphia Stock Exchange's Automated Communication and Execution System. It is the Exchange's order routing, delivery, execution, and reporting system for its equity trading floor.

[3] The Commission has modified parts of these statements.

[4] For a detailed listing of the above fees, please see *Exhibit B* of this proposed rule change in the Commission's Public Reference Section.

[5] 15 U.S.C. 78q–1(b)(3)(D).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] 17 CFR 200.30–3(s)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–37]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition number involved and must be received on or before June 5, 2001.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy, Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, D.C., on May 10, 2001.

Donald P. Byrne,

Assistance Chief Counsel for Regulations.

Petitions for Exemptions

Docket No.: FAA–2001–8841.

Petitioner: HammerHead Aerobatics Inc.

Section of 14 CFR Affected: 14 CFR 91.315.

Description of Relief Sought: To permit HammerHead to operate its Sukhoi 29, which holds an experimental airworthiness certificate, for the purpose of carrying passengers on local flights in return for compensation, dual instruction, and demonstration flights, until the SU–29 can be certificated under 14 CFR parts 23.

[FR Doc. 01–12237 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 186: Automatic Dependent Surveillance—Broadcast (ADS–B)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 186 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 186: Automatic Dependent Surveillance—Broadcast (ADS–B).

DATES: The meeting will be held June 4–7, 2001 starting at 9 a.m.

ADDRESSES: The meeting will be held at the Honeywell—Laguna South ''Training Center,'' 14980 NE 31st Circle, Redmond, WA, 98052.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.* (2) *On-site Point of Contact:* Pio Blankas, Redmond, WA: telephone (425) 885–8277; fax (425) 887–8431.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, U.S.C., Appendix 2), notice is hereby given for a Special Committee 186 meeting. The agenda will include:

- June 4, 5, 6:
  - Working Group 4, ASA Minimum Aviation System Performance Standards (MASPS)
  - Joint Working Group 1, Operations and Implementation
- June 7:
  - Opening Session (Chairman's Introductory Remarks, Review of Meeting Agenda, Review/Approval of Previous Meeting Summary)
  - USAF/DOD Requirements Process
  - EUROCAE WG–51 Status Report (WG–51 Participation with ASA Minimum Aviation System Performance Standard (MASPS); WG–53 ''Top Down'' Methodology)
  - SC–186 Activity Reports
  - WG–1, Operations & Implementation
  - WG–2, Traffic Information Service—Broadcast (TIS–B)
  - WG–3, 1090 MHz Minimum Operational Performance Standard (MOPS)
  - WG–4, Application Technical Requirements
  - WG–5, Universal Access Transceiver (UAT) MOPS
  - Ad Hoc MASPS Working Group (DO–242)
  - Closing Session (Review Actions Items/Work Program, Other Business, Date, Place and Time of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 9, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–12233 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 165: Minimum Operational Performance Standards for Aeronautical Mobile Satellite Services

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 165 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 165: Minimum Operational Performance Standards for Aeronautical Mobile Satellite Services.

DATES: The meeting will be held June 5–7, 2001 starting at 9 a.m.

ADDRESSES: The meeting will be held in the RTCA Conference Room, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 165 meeting. The agenda will include:

- June 5, 6, 7:
  - Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting, Chairman's Remarks)
  - Review of SC–165 Working Group Activities
  - Working Group 1 (AMS(R)S Avionics Equipment Minimum Operational Performance Standard (MOPS))
  - Working Group 3 (AMS(R)S MASPS)
  - Complete Final Review and Comment (FRAC) Process for *Minimum Aviation System Performance Standards (MASPS) for the Aeronautical Mobile-Satellite (R) Service (ASM(R)S) as Used in Aeronautical Data Links*
  - Brief Overview of Related Activities
  - AEEC 741 and 761 Characteristics
  - ERUOCAE WG–55
  - AMS(R)S Spectrum Issues
  - ICAO Aeronautical Mobile Communications Panel
  - Industry, Users, Government
  - Closing Session (Other Business, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 9, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–12234 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 197: Rechargeable and Starting Batteries

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 197 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 197: Rechargeable and Starting Batteries.

DATES: The meeting will be held May 22–24, 2001 starting at 8:30 p.m. on Tuesday, May 22nd, and at 8 a.m. the following days.

ADDRESSES: The meeting will be held at the Government Conference Centre, Rideau Street, Ottawa, Canada.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.* (2) *On-site Point of Contact:* Jim Deviller, Ottawa, Canada; telephone (613) 993–0696.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 197 meeting. Note: SC–197 will be meeting with TC21 Working Group 4 of the International Electrotechnical Commission (IEC). The agenda will include:

- May 22, 23, 24:
  - Opening Session (Welcome and Introductory Remarks, Review of Agenda, Review Summary of Previous Meeting)
  - Review Action Items and Status
  - Review and Discuss RTCA activity and relationship with IEC
  - Discuss draft documents, intended use and implementation
  - Closing Session (Other Business, Establish Agenda for Next Meeting, Date and Place of Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 9, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–12235 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 181/ EUROCAE Working Group 13: Standards of Navigation Performance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 181/EUROCAE Working Group 13 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 181/ EUROCAE Working Group 13: Standards of Navigation Performance.

DATES: The meeting will be held May 21–25, 2001 starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., Colson Board Room and Rohde & Schwartz Room, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 181/ EUROCAE Working Group 13 meet. *Note: Working Groups 1 and 4 will meet separately each day of the meeting.* The agenda will include:

- May 22:
  - Opening Session (Chairman Remarks, Working Group Reports, Plenary Review)
- May 24:
  - Closing Session (Plenary Review, New Business, Future Meeting Schedule, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 9, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–12236 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement Number ANM–01–03]

Factors To Consider When Reviewing an Applicant's Proposed Human Factors Methods of Compliance for Flight Deck Certification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of policy statement; request for comments.

SUMMARY: This notice announces a proposed FAA general statement of policy that is applicable to the type certification process of transport category airplanes. This policy statement provides guidance to FAA Certification Teams that will enable them to conduct an effective review of an applicant's proposed methods of compliance identified in a Human Factors Certification Plan, or the human factors components of a general Certification Plan, if one is submitted as part of a type certification certificate (TC), supplemental type certification certificate (STC), or amended type certificate (ATC) application. This policy also is applicable in cases where an applicant chooses to identify methods of compliance in other types of documents, such as a letter containing the description of changes to production configurations. This guidance describes a process to promote early discussion and agreement between the FAA and the applicant regarding the methods by which the applicant may demonstrate compliance with human factors-related regulations during certification projects. This notice is to advise the public of FAA policy and give all interested persons an opportunity to review and comment on the policy statement.

DATES: Send your comments by June 15, 2001.

ADDRESSES: Address your comments to the individual identified under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Steve Boyd, Federal Aviation Administration, Transport Airplane Directorate, Transport Standards Staff, Airplane & Flightcrew Interface Branch, ANM–111, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (425) 227–1138; fax (425) 227–1320; e-mail: *9-ANM-111-humanfactors@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites your comments on this proposed general statement of policy. We will accept your comments, data, views, or arguments by letter, fax, or e-mail. Send your comments to the person indicated in **FOR FURTHER INFORMATION CONTACT**. Mark your comments, ''Comments to Policy Statement ANM–01–03.''

Use the following format when preparing your comments:

- Organize your comments issue-by-issue.
- For each issue, state what specific change you are requesting to the proposed general statement of policy.
- Include justification, reasons, or data for each change you are requesting.

We also welcome comments in support of the proposed policy.

We will consider all communications received on or before the closing date for comments. We may change the proposals contained in this notice because of the comments received.

Effect of General Statement of Policy

The FAA is presenting this information as a set of guidelines suitable for use by certain applicants for a type certificate (TC), supplemental type certificate (STC), or amended type certificate (ATC). However, the general policy stated in this document is not intended to establish a binding norm; it does not constitute a new regulation, and the FAA would neither apply nor rely on it as a regulation. The FAA Aircraft Certification Offices (ACO) that certify transport category airplanes and/or the flight deck systems installed on them should attempt to follow this policy, when appropriate. However, in determining compliance with certification standards, each FAA office has the discretion not to apply these guidelines where it determines that they are inappropriate. Applicants should expect that the certificating officials will consider this information when making findings of compliance relevant to new certificate actions.

As with all advisory material, this general statement of policy identifies one means, but not the only means, of compliance.

Background

Recent aviation safety reports underscore the importance of addressing issues related to human performance and flightcrew error in system design and certification. Applicants have demonstrated the effectiveness of using a ''Human Factors Certification Plan,'' or any other certification plan which identifies human factors issues and considerations, to communicate to the FAA their proposed approach to identifying and resolving human performance issues. The FAA previously issued Policy Statement No. ANM–99–2, entitled ''Guidance for Reviewing Certification Plans to Address Human Factors for Certification of Transport Airplane Flight Decks'' (64 FR 54399, October 6, 1999; and 65 FR 19958, April 13, 2000). That policy statement provides guidance on the recommended content of a Human Factors Certification Plan. A Human Factors Certification Plan is not a required document, but may be included as part of a certification project if an applicant so chooses. Policy Statement No. ANM–99–2 recommended that the plan include a list of the ''Methods of Compliance (MOC)'' that the applicant proposes to use to show compliance with each applicable regulation.

The guidance contained in this new policy statement provides further recommendations regarding the review of the applicant's proposed MOCs. These recommendations can be used as a means by which the applicant and the FAA can establish an early and formal written agreement on the methods of compliance for regulations that relate to human factors and that are applicable to the certification project. This will help FAA Certification Teams address the MOCs as early in the certification process as possible, thus decreasing the applicant's certification cost and schedule risk.

This new policy statement is one portion of an overall FAA strategy for developing policies related to human factors in the certification of flight decks on transport category airplanes. Policy development will cover the following areas related to showing compliance with regulatory requirements associated with human factors:

1. *Information on the recommended content of certification plans.* (The FAA previously published this information as Policy Statement No. ANM–99–2). This policy is intended to improve the timeliness and effectiveness of communication between the applicant and the FAA concerning the requirements related to human factors.

2. *Information on how to determine the adequacy of an applicant's proposed methods of compliance.* (This is the information provided in this policy statement.) This policy provides further information on the methods of

compliance that may be proposed in certification plans or other documents provided by the applicant.

3. *Information on how to determine the adequacy of an applicant's proposed human factors test plans intended to support certification.* (The FAA has not yet developed or published this information.) This policy will support the ACO when it determines that test plans related to compliance with requirements related to human factors require FAA review and concurrencethe ACO determines that it is appropriate for the FAA to review and concur with the applicant's test plans relative to human factors requirements.

4. *Information on how to reach agreement on design acceptability for human factors analyses and tests performed to support certification.* (The FAA has not yet developed or published this information.) This policy will improve the process by which the applicant and the FAA jointly agree on how to determine whether the design meets the regulatory requirements. This is especially important for those requirements that rely on subjective evaluations to determine acceptability.

5. *Information on the recommended roles and responsibilities of test pilots, human factors specialists, and other technical specialists in certification programs, with respect to regulations related to human factors.* (The FAA has not yet developed or published this information.) This policy will clarify how these individuals should work together to review and approve the various aspects of the certification project that concern human factors.

Objectives of This Policy Statement

The policy statement is for use by members of FAA Certification Teams, which may include the following individuals:

- Aircraft evaluation group inspectors,
- Avionics engineers,
- Certification Team project managers,
- Flight test pilots,
- Flight test engineers,
- Human factors specialists,
- Propulsion engineers, and
- Systems engineers.

While this policy is focused on providing guidance to these FAA Certification Team members, it may be of use to applicants, as well.

This policy statement addresses the methods by which applicants may show compliance with regulations related to flight deck human factors during a type certificateion (TC), a supplemental type certificateion (STC), or an amended type certificate (ATC) project for transport category airplanes. The objective of this policy is to provide information for the FAA Certification Team to refer to's reference when reviewing the applicant's proposed MOCs. For projects in which a certification plan is not submitted, this policy can stillmay be used useful in discussions between the applicant and the FAA about how applicants may demonstrate compliance with applicable regulations. Although the policy provides information to all members of the FAA Certification Team, test pilots and human factors specialists will normally determine the interpretation of the acceptability of a proposed MOC.

The goal of this policy is to improve the consistency of FAA evaluations of applicants' proposed MOCs. Its purpose is not to standardize the MOC for any given requirement; rather, it provides information about the issues and factors that should be considered when evaluating an applicant's proposed MOCs. The specifics of each certification project will determine the outcome of those evaluations and the acceptability of an applicant's proposed MOCs.

The FAA recognizes that decisions concerning MOCs for human factors issues are complex and context-dependent. Usually, selecting the appropriate MOC for a regulation in a specific project will be based on an understanding of the human factors issues and the capabilities and limitations of the various MOCs with regard to the issues and the regulations. However, it may be appropriate to consider other factors to ensure that the desired MOCs are reasonable for the specific project. These other factors include:

- The complexity of the project.
- The safety implications of the human factors issues.
- The availability and need for test environments (simulators, for example).
- The experience base of the applicant.
- The cost and schedule implications of each MOC.

These factors should be considered as a whole when determining the adequacy of the applicant's proposed MOCs, as well as when determining the need for alternative MOCs.

The Certification Team should strive to agree on MOCs that effectively show compliance with the regulation in a manner that is commensurate with:

- The significance of the human factors safety risks, and
- The complexity of the issues underlying a finding of compliance.

For example, the FAA should not insist on an extensive and costly evaluation of a simple design change that has no significant safety implications. Conversely, the applicant should not request a quick FAA sign-off for a novel, complex design that may have the potential for significant safety-related pilot errors.

This policy statement does not supersede any current or future FAA Advisory Circulars that deal with human factors MOCs. Wherever possible, this policy statement attempts to provide references to relevant existing advisory material. If there are any cases in which there is a conflict between existing Advisory Circulars and this policy statement, the Advisory Circulars take precedence.

The FAA recognizes the current effort of several Harmonization Working Groups, chartered under the Aviation Rulemaking Advisory Committee (ARAC) process, that may develop regulatory or advisory material affecting human factors requirements or MOCs. If these Working Groups develop or modify regulatory or advisory material relevant to human factors issues, the FAA will review this policy statement and update it as necessary to maintain consistency.

Application of the General Statement of Policy

Because this general statement of policy only announces what the FAA seeks to establish as policy, the FAA considers it an issue for which public comment is appropriate. Therefore, as stated previously, we request comments on the following proposed general statement of policy. Resolution of any public comments received will determine how the policy is applied in the long term for future projects.

General Statement of Policy

Guidance for Reviewing Human Factors Methods of Compliance for Flight Deck Certification

The guidance provided in the following sections is intended to help the FAA Certification Team members review the human factors MOCs proposed by an applicant during a certification project. Those MOCs may be identified in a Certification Plan or other document submitted by an applicant. The applicant may wish to provide this information by any number of means, such as:

- Part of a Human Factors Certification Plan or overall Project Certification plan, if submitted;
- A separate, unique document; or
- A briefing or series of briefings and discussions.

Regardless of the medium used for providing information, it should be

organized in a way that shows the relationship between the specific human factors requirements and the MOCs used for each. The applicant is under no obligation to provide the information described in this policy statement, except as necessary to demonstrate compliance when certification is requested. However, the FAA considers that early discussions of the proposed MOCs for human factors requirements is beneficial to both the FAA and the applicant, and may significantly reduce certification risk. This policy does not imply that applicants should be required to provide extensive, written justifications of their proposed MOCs. Rather, the information in this policy statement should be used by the FAA Certification Team to evaluate the proposed MOCs, and to provide common reference points for discussions between the applicant and the FAA.

Organization of This Policy Statement

The information provided in this policy statement covers three topics:

1. General information on methods of compliance for regulations related to human factors.
2. Identification of design-specific human factors issues.
3. Identification of regulation-specific human factors issues.

In addition, a list of selected regulations is included in Appendix A. This list contains the same regulations as those cited in Policy Statement No. ANM–99–2 (referred to previously). However, Appendix A of this new policy statement provides a more detailed discussion of MOCs for each of the cited regulations. The FAA also plans to provide the information in Appendix A of this policy statement on an internet web site, where it can become a ''living document'' and can be updated as new regulatory material, information, processes, and technology become available.

1. Methods of Compliance

In the Human Factors Certification Plan, overall Certification Plan, or other certification project documents, the applicant may propose or describe the methods that will be or have been used to demonstrate compliance with the relevant human factors regulations. The review and discussion of the methods of compliance is an opportunity for the FAA and the applicant to work together, early in the certification program, to identify potential certification issues related to human factors. Policy Statement No. ANM–99–2 provided a brief discussion of the MOCs; the section below expands on that information by providing more detailed discussions.

The methods of compliance are not mutually exclusive. The applicant may choose to include any one or a combination of these methods of compliance. The applicant should describe all methods of compliance to be used in a certification project in enough detail to give the FAA Certification Team confidence that the results of the chosen methods will provide the information necessary for finding compliance. Following is a list of MOCs relevant to compliance with human factors regulations:

1.a. *Drawings:* These are layout drawings and/or engineering drawings that show the geometric arrangement of hardware or display graphics. Drawings typically are used when demonstration of compliance can easily be reduced to simple geometry, arrangement, or the presence of a given feature, on a technical drawing.

1.b. *Configuration description:* This is a description of the layout, general arrangement, direction of movement, etc., of the regulated item, or a reference to similar documentation. For example, such a description could be used to show the relative locations of flight instruments, groupings of control functions, allocation of color codes to displays and alerts, etc. Configuration descriptions are generally less formalized than engineering drawings, and are developed in order to point out the features of the design that are supportive of a finding of compliance. Configuration descriptions may illustrate how a design philosophy or concept is implemented in a consistent, easy-to-understand manner. In some cases, such configuration descriptions may provide sufficient information for a finding of compliance with a specific requirement; however, more often, configuration descriptions provide important background information requiring demonstrations, tests, or other means to confirm compliance. The background information provided by configuration descriptions, however, may significantly reduce the complexity and/or risk associated with the demonstrations or tests.

1.c. *Statement of similarity:* This is a description of the system to be approved and a description of a previously-approved system. The description details the physical, logical, and operational similarities of the two systems in complying with the regulations. Past certification precedents are important; however, this method of compliance must be used with care because the flight deck should be evaluated as a whole, rather than merely as a set of individual functions or systems. For example, two functions that have been previously approved on two different programs may be incompatible when combined on a single flight deck. Also, changing one feature in a flight deck may necessitate corresponding changes in other features, in order to maintain consistency and prevent confusion.

1.d. *Evaluations, assessments, and analyses:* These are conducted by the applicant or others (not the FAA or a designee), who then provide a report of their results to the FAA. Traditionally, these types of activities have been used as part of the design process without formal certification credit. However, when properly performed, these activities can result in better designs that are more likely to be compliant with applicable regulations. In cases where human subjects (pilots, for example) are used to gather data (subjective or objective), the applicant should fully document the selection of participants, what data will be collected, and how it will be collected. This will allow the FAA Certification Team to determine the extent to which the evaluations, assessments, and analyses provide valid and relevant information with respect to finding compliance with the regulations. For a more detailed discussion of how these evaluations, assessments, and analyses can be used and formalized, see Appendix D of this policy statement.

1.d.(1) *Engineering evaluations or analyses*—These assessments can involve a number of techniques, including:

- Procedure evaluations (complexity, number of steps, nomenclature, etc.);
- Reach or strength analysis via computer modeling;
- Time-line analysis for assessing task demands and workload; or
- Other methods, depending on the issue being considered.

Certification Teams should carefully consider the validity of assessment techniques for analyses that are not based on advisory material or accepted industry standard methods, and request that applicants validate any computation tools used in such analyses. If analysis involves comparing measured characteristics to recommendations derived from pre-existing research (internal or public domain), the applicant may be asked to validate the use of the data derived from the research.

1.d.(2) *Mock-up evaluations*—These are evaluations using mock-ups of the flight deck and/or components. Mock-ups are typically used for assessment of reach and clearance and, therefore, they

demand a high degree of geometric accuracy. Mock-ups have traditionally been physical representations of the design, which have allowed evaluators to physically interact with the design. In some cases, drawings of controls and indicators, placed on accurately positioned representations of instrument panels, can be beneficial in conducting reach assessments. Using data extracted from computer-aided design (CAD) systems, control panels can now be mocked-up physically in three-dimensional form (a process generally referred to as ''stereo lithography''). These mock-ups can allow more precise evaluations of finger clearances, visibility of labels, etc. Three-dimensional representations of the design in a CAD system, in conjunction with three-dimensional models of the flight deck occupants, also have been used as ''virtual'' mock-ups for certain limited types of evaluations. For example, reach assessments using this technique can use either:

- Statistical samples of relevant body characteristics (for example, limb sizes, joint limits, etc.) or
- Carefully chosen sets of specific combinations of body characteristics.

In the latter case, attention should be given to selecting reasonable worst-case combinations of characteristics (for example, a worst-case might be a 5′2″ pilot with more than proportionally short legs). Care must be taken to determine if the model of the human reasonably represents actual human movement capabilities, especially at extreme body positions or near joint rotation limits. It is important to note that this type of virtual mock-up and, in fact, many types of mock-ups may be of even greater use during the design phase as part of engineering evaluations. They should only be used judiciously as an MOC because they typically represent only certain features of the physical arrangement. For example, a control may be reachable in a given location, but, due to the means of actuation or forces required, it may be too difficult to use when placed there. For many of the compliance issues typically evaluated in mock-ups, final compliance findings often can be found only in the actual airplane or a simulator.

1.d.(3) *Part-task evaluations*—These are evaluations using devices that emulate the crew interfaces for a single system or a related group of systems, using flight hardware, simulated systems, or combinations of these. Typically, these evaluations are limited by the extent to which acceptability may be affected by other flight deck tasks. This MOC is most easily used for stand-alone systems. As flight deck systems become more integrated, part-task evaluations may become less useful as an MOC, even although their utility as engineering tools may increase. A typical example of a part-task demonstrator for an integrated system would be an avionics suite installed in a mock-up of a flight deck, with the main displays and autopilot controllers included. Such a tool may be valuable during development and for providing system familiarization to the authorities. However, in a highly integrated architecture, it may be difficult or impossible to assess how well the avionics system will fit into the overall flight deck without more complete simulation or use of the actual airplane.

1.d.(4) *Simulator evaluations*—These are evaluations using devices that present an integrated emulation (using flight hardware, simulated systems, or combinations of these) of the flight deck and the operational environment. They can also be ''flown'' with response characteristics that replicate, to some extent, the responses of the airplane. Typically, these evaluations are limited by the extent to which the simulation is a realistic, high fidelity representation of the airplane, the flight deck, the external environment, and crew operations. It should be noted that not all aspects of the simulation must have a high level of fidelity for any given compliance issue. Rather, fidelity requirements should be evaluated in view of the issue being evaluated. For additional information, see section 4.b.(1) of FAA Advisory Circular (AC) 25–11, ''Transport Category Airplane Electronic Display Systems,'' dated July 16, 1987.

1.d.(5) *In-flight evaluations*—These are evaluations using the actual airplane. light test generally offer the most realistic and comprehensive environment for evaluating the flight crew interface design in realistic scenarios. Assuming that the airplane is fully configured, the integration of the flight crew interface features can be evaluated in a flight environment, including communication tasks and interaction with the ATC environment. However, Ttypically, these evaluations are may be limited by the extent to which the critical flight conditions (for example, weather, failures, or unusual attitudes) can be located or generated, and then safely evaluated in flight. While evaluations using the actual airplane are the closest to real operations, in some cases not all of the scenarios of interest can be demonstrated. The applicant may not be able to show certain failures or combinations of failures for a variety of technical or safety reasons. In such cases, applicants may find it necessary to combine flight testing with other MOCs in order to gain a complete evaluation. For additional information, see FAA AC 25–11, section 4.b.(1).

1.e. *Demonstrations:* These are similar to evaluations (as described above), but conducted by the applicant with participation by the FAA or its designee. The applicant may provide a report or summary, requesting FAA concurrence on the findings. In each case, the applicant should note the limitations of the demonstration and how those limitations relate to the compliance issues being considered. The FAA should carefully consider which of its specialists will participate (for example, pilots, human factors specialists, or systems engineers), what data will be collected (objective and/or subjective), and how the data will be collected. This is to ensure that the demonstration adequately addresses the compliance issues and that there is participation by the appropriate FAA evaluators. Examples of demonstrations include:

- Mock-up demonstrations.
- Part-task demonstration.
- Simulator demonstration.

1.f. *Inspection:* This is a review of a regulated item by the FAA or its designee, who will be making the compliance finding. This MOC is generally limited to those items for which compliance can be found simply by looking at (or listening to) the feature being considered (for example, the presence or absence of a placard, the direction of control movement, etc.).

1.g. *Tests:* These are tests conducted by the FAA or a designee. Types of tests include:

1.g.(1) *Bench tests*—These are tests of components in a laboratory environment. This type of testing is usually confined to showing that the components perform as designed. Typical bench testing may include measuring physical characteristics (forces, luminance, or format, for example) or logical/dynamic responses to inputs, either from the user or from other systems (real or simulated). For most human factors evaluations, bench tests are insufficient to show compliance, but can provide useful supporting data in combination with other methods. For example, visibility of a display under the brightest of the expected lighting conditions might be shown with a bench test, provided there is supporting analysis to define the expected lighting conditions. This might include a geometric analysis to show the potential directions from which the sun could shine on the display, along with

calculations of expected viewing angles. These conditions might then be replicated in the laboratory.

1.g.(2) *Ground tests*—These are tests conducted in the actual airplane, while the airplane is on the ground and stationary. In some cases, specialized test equipment may be used to allow the airplane systems to behave as if the airplane were airborne. Certain failures that would be unsafe to test in flight might be evaluated using ground tests, provided that the test capability can adequately simulate the in-flight failure condition. Another example of a typical ground test is an evaluation of potential reflections in displays. Such a test usually involves covering the flight deck windows to simulate darkness and setting the flight deck lighting to desired levels. This particular test may not be possible in a simulator, due to differences in the light sources, display hardware, and/or window construction.

1.g.(3) *Simulator tests*—[See *Simulator evaluations*, paragraph 1.d.(4), above.]

1.g.(4) *Flight tests*—These are tests conducted in the actual airplane during flight. [See *In-flight evaluations*, paragraph 1.d.(5), above.] In some cases, applicants and the FAA may place too much emphasis on flight testing, to the exclusion of other MOCs. This may be based on the belief that flight testing is the best available method for evaluating the flight deck. While it is true that flight testing can be very powerful, it also has limitations. As described in the section on in-flight evaluations, above, it may not be possible to test all of the important scenarios or conditions. Flight testing provides the least control over conditions of any of the MOCs. In addition, flight testing is extremely expensive and may not allow a thorough, comprehensive evaluation with sufficient numbers of FAA evaluators. While many simple evaluations can and should be handled by a single FAA evaluator, in other cases, the issues are too complex and subjective to be decided by a single person on a few flights, especially for novel designs. For such issues, it is often best to use flight testing as a final confirmation of data collected using other MOCs, including analyses and evaluations. The FAA and the applicant should discuss thoroughly how and when flight tests will be used to show compliance, as well as how flight test results will be supported by other MOCs.

1.h. *Compliance vs. design optimization:* The FAA personnel who are evaluating proposed methods of compliance for rules related to human factors should keep in mind there may be a number of crew interface design features that are compliant with the applicable rules, but could be improved. However, applicants are under no legal obligation to conduct assessments to show that a compliant design is the best that they could implement among feasible alternatives (i.e., is ''optimized'').

2. Identification of Design-Specific Human Factors Issues

The MOCs identified above cover a wide spectrum, from documents that simply describe the product, to partial approximations of the system(s), to methods that replicate the actual airplane and its operation with great accuracy. Features of the product being certified and the types of human factors issues to be evaluated are key considerations when selecting which method is to be used. The characteristics described below can be used to help in coming to agreement on what constitutes the minimum acceptable method(s) of compliance for any individual requirement. When a product may need to meet multiple requirements, some requirements may demand more complex testing, while others can be handled using simple descriptive measures. It is important to note that the following characteristics are only *general* principles. They are intended to form the basis for discussions regarding acceptable methods of compliance for a specific product with regard to a requirement.

2.a. *Degree of integration/independence:* If the product to be evaluated for compliance is a stand-alone piece of equipment that does not interact with other aspects of the crew interface, less integrated methods of compliance may be acceptable. However, if the product is a complete flight deck (as in a TC program) or is a single system that is tightly tied to other systems in the flight deck, either directly or by the ways that flightcrews use them, it may be necessary to use methods that allow the testing of those interactions.

2.b. *Novelty/past experience:* If the technology is mature and well-understood, less rigorous methods may be appropriate. More rigorous methods may be called for if the technology is:

- New,
- Used in some new application,
- New for the particular applicant, or
- Unfamiliar to the certification personnel.

2.c. *Complexity/Level of automation:* More complex and automated systems typically require test methods that will reveal how that complexity will manifest itself to the pilot, in normal and backup or reversionary modes of operation.

2.d. *Criticality:* Highly critical systems may require testing in the most realistic environments (high quality simulation or flight test), because any problems are more likely to have serious consequences.

2.e. *Dynamics:* If the control and display features of the product are highly dynamic, the compliance methods should be capable of replicating those dynamic conditions.

2.g. *Subjectivity of acceptance criteria:* If a requirement has specific, objectively measurable criteria, the applicant can often use simpler methods to demonstrate compliance. As the acceptance criteria become more subjective, the applicant will need to use more integrated test methods, so that the evaluations take into account the aspects of the integrated flight deck that may affect those evaluations.

The central point is to carefully match the method to the product and the underlying human factors issues. It is also important for the FAA Certification Team to recognize that several alternative methods may be acceptable.

3. Identification of Regulation-Specific Human Factors Issues

The following steps outline a strategy for identifying the human factors issues associated with each regulation. Two examples are carried through each issue for purposes of illustration. Further detail on a selected set of regulations related to human factors can be found in Appendix A of this policy statement.

3.a. *Identify key human factors issues related to the rule.* While rules may focus on a single concept, there may be several underlying components that must be considered in order to evaluate that issue.

- *Example 1:* Section 25.777 (in part) states that the flight deck must accommodate pilots from 5′2″ to 6′3″ in height. This means that pilots within this range should be able to reach all required controls, see all of the displays, and have sufficient clearance with the structure, panels, etc. Height is not the only variable of interest, because people of the same height may have different lengths of arms, legs, etc. So, consideration must be given to various representative body proportions that fall within the height range identified in the regulation.
- *Example 2:* Section 25.773(a)(2) states that there should be no objectionable reflections in the flight deck. Underlying variables may include the size, brightness, color, dynamics, and location of the reflections.

3.b. *Identify systems, components, and features that are potentially affected by the rule.*

• *Example 1:* Components that are near the expected reach boundaries, as well as those that may be blocked by intervening objects (such as a control that is installed in front of the throttles), should be evaluated for reach. Potential knee contact with the lower edge of the main instrument panel may need to be evaluated for clearance, especially for tall pilots with long legs.

• *Example 2:* Windows, displays, and light sources (all in the correct geometry) may be affected.

3.c. *Look for aspects of those systems, components, and features that need to be evaluated in order to show compliance with the rule* (for example, forces required, readability of labels, and number of discrete actions required). These aspects are likely to vary by system, component, and feature, and by rule.

• *Example 1:* Seat and rudder pedal adjustment ranges should be factored into evaluations of reach and clearance.

• *Example 2:* Light source luminance levels, reflectance of display surfaces, and readability of the display in the presence of the reflections should all be considered.

3.d. *For modifications to existing flight decks or new type designs that are based on or derived from an existing flight deck design, look for ways in which new aspects of the design may compromise compliance with previously certified designs.*

• *Example 1:* Reaching for a new control may result in the inadvertent activation of a previously installed and certificated control. Another example might be the possibility of striking one's head on a newly installed head-up display when reaching for an existing control on the main instrument panel.

• *Example 2:* Placing a new display device in the flight deck may produce new reflections in the windows. In another situation, a new electronic display [for example, a liquid crystal display (LCD)] may be more susceptible to reflections than the electro-mechanical display it replaces.

3.e. *Review past precedents.* In this context, precedents should be reviewed to assess novelty of the design, because novelty of the design will often affect the selection of an appropriate MOC. Similarity to a previously certificated design does not necessarily mean that the new product will be certificated. Rather, that similarity may result in fewer unknowns and a commensurate reduction in the rigor of the evaluations. It is important to assess whether or not there are new issues or interactions that were not present in previously certificated installations. Because it is the *installation* (in the flight deck) that is certificated, not the equipment itself, it is important to look for installation-unique issues when evaluating the relevance of past precedents.

• *Example 1:* Two questions to ask are: If a new control is being added, have other similar controls been installed in the same location on other versions of this flight deck? Are there any other differences that might cause new reach or clearance issues to emerge?

• *Example 2:* Determine whether the actual LCD ''glass'' in the new device is already certificated in similar installations. If so, there may be less concern about unacceptable reflectance characteristics. However, any unique characteristics of the lighting environment in the new installation may increase uncertainty.

3.f. *Assess design novelty.* In addition to the need to fully determine their compliance with existing rules, novel designs may require more rigorous evaluations to ensure that their novel features (not covered by current regulations) do not result in any new safety problems. *Note:* Any evaluations intended to identify such new safety problems, which might require the development of Special Conditions, should be accomplished as early in the project as possible. This will allow the FAA and the applicant to reach a common understanding of the issues, and to allow the applicant sufficient time to show compliance with any resultant Special Conditions.

3.g. *Review the proposed MOCs for each human factors rule and determine if, taken together, they adequately address the compliance issues that have been identified for the relevant systems.* There is no formula for this determination; it is based on the judgment of the FAA Certification Team. It is important to note that this step is not intended to determine if all potential human factors issues have been fully addressed. Instead, it is concerned only with determining if the proposed MOCs address the regulatory compliance issues, including those associated with Special Conditions.

3.h. *If the proposed MOCs do not fully address the human factors issues associated with compliance, determine if the level of effort needed for the MOC preferred by the FAA Certification Team is commensurate with the level of safety risk and the compliance uncertainty.* This step is also based on the judgment of the FAA Certification Team. The Team should carefully consider the regulation-specific issues and the design-specific issues to ensure that onerous MOCs are not demanded for simple, low-risk designs. The MOCs should focus on the compliance and safety issues, rather than on design optimization. However, applicants should be allowed to select (and justify) efficient and low cost MOCs, when appropriate. The applicant and the FAA Certification Team should strive for consensus on the MOCs. An open dialog is an important part of reaching that consensus.

Certification Documentation

This policy statement describes a number of issues that the FAA should consider when evaluating the applicant's proposed Human Factors MOCs. In most cases, it will be beneficial for the applicant to review this policy and use it to structure the explanation or justification for the selection of Human Factors MOCs for the certification project. The applicant may provide to the FAA the information supporting the proposed Human Factors MOCs in any format or media that is mutually agreeable to the applicant and the FAA Certification Team. In general, a formal document is not required, although the applicant may choose to record the information in the relevant Certification Plan(s) or in a separate document. Often, the most effective and efficient means to convey the rationale for the selected MOCs is to hold discussions between the applicant and the FAA. If this latter option is used, it is recommended that the discussion be documented and that the conclusions be jointly approved.

Additional guidance on this policy statement is provided in the following appendices:

• Appendix A: Partial List of 14 CFR part 25 Regulations Related to Human Factors Issues. (This same list was published in Policy Statement No. ANM–99–2. It contains detailed description of the regulation-specific issues, and cites relevant Advisory Circulars.)

• Appendix B: Related Documentation.

• Appendix C: Sample Human Factors Methods of Compliance Briefing.

• Appendix D: The Use of Design Evaluations to Support the Certification Process.

Appendix A—Partial List of 14 CFR Part 25 Regulations Related to Human Factors Issues

This appendix provides a list of current regulations that are related to human factors issues. The list is divided into the following three categories:

1. *General Human Factors Requirements:* Rules that deal with the acceptability of the flight deck and flightcrew interfaces across a variety of systems/features.

2. *Specific Human Factors Requirements:* Rules that deal with the acceptability of a specific feature or function in the flight deck.

3. *Specific Crew Interface Requirements:* Rules that mandate a specific system feature that must be implemented in an acceptable manner.

This list does not include all regulations associated with flightcrew interfaces. However, those listed represent some of the requirements for which demonstrating compliance can be problematic. In some cases, where only subparagraphs are noted, they have been paraphrased for clarity. However, the FAA Certification Team should ensure that the applicant refers to the exact wording of the regulation in all plans and compliance documents.

Where there is associated advisory material, it is cited. In many other cases, there may be no explicit guidance on methods of compliance (MOC). Therefore, it is important for the FAA Certification Team to carefully consider the applicant's proposed MOCs and attempt to come to agreement with the applicant. Rather than specifying an acceptable MOC for any given project, which is the function of advisory material, the information that is provided below for each rule is intended to identify issues that should be considered when reviewing the applicant's proposed MOC. Following each regulatory requirement are the following subsections, where appropriate:

1. *General discussion* of the regulation and issue.

2. *Key questions* to be asked or considered by the FAA Certification Team in order to help identify the MOC issues associated with the requirement. These regulation-specific questions assist the Certification Team to ensure that the applicant has tailored the MOCs to the potential human factors issues for the design being considered. The questions help provide focus on some of the features of designs and the way the flightcrew will use them that typically result in concerns about how to show compliance with the requirement. These lists are not all-encompassing. Rather, they are intended to stimulate the review process and lead to additional questions that are unique to the features of the specific designs. As new technologies emerge, the issues may change and new questions will need to be asked in order to identify the human factors issues related to the requirement.

3. *Design-related factors,* such as those listed below, are included when appropriate to point out other more generic issues relevant to the MOC for the requirement:

- Novelty and past experience;
- Degree of integration and independence;
- Complexity or Level of automation;
- Criticality;
- Dynamics;
- Level of training required; and
- Subjectivity of acceptance criteria.

It is important to remember that, for the purposes of this policy statement, the information is directed at reviews of the proposed MOCs, not the acceptability of the design itself. More specifically, the focus is on the general types of MOCs that the applicant has proposed. Details of how the compliance assessments are to be conducted (for example, the test designs, and the types of subjects) or the criteria for compliance (i.e., acceptance criteria) are not included. These topics will be the subjects of future policy statements. For example, this appendix discusses whether or not simulation would be appropriate for showing compliance with a given requirement; it does not discuss how the simulator should be used, what data should be collected, or how to determine whether or not the design is acceptable based on the data.

Note that none of the regulations listed below are associated with airplane handling qualities. While such rules obviously have human factors implications, they have traditionally been the responsibility of aeronautical engineers, control system designers, and test pilots. The applicant may, if it so chooses, include such regulations in the Human Factors Certification Plan. However, the methods of compliance are discussed in flight test advisory material and FAA orders, and are outside the purview of this policy statement.

1. General Human Factors Requirements

Section 25.771(a) [at amdt. 25–4]: ''Each pilot compartment and its equipment must allow the minimum flightcrew to perform their duties without unreasonable concentration or fatigue.''

Discussion: The FAA Certification Team should carefully consider the aspects of the flightcrew interface that might require significant or sustained mental or physical effort, or might otherwise result in fatigue. Other factors affecting fatigue, such as noise and seat comfort, may also need to be evaluated. When reviewing the applicant's proposed MOC, the FAA Certification Team should consider the expected sources of fatigue, as well as how and when that fatigue is likely to manifest itself. Applicants have often successfully used comparisons to previously certificated designs, although testing may be warranted for new flightcrew interface designs or functions.

Questions that the FAA Certification Team should ask the applicant when identifying the human factors-related MOC issues are discussed in Table A–1.

TABLE A–1.—§ 25.771(a): QUESTIONS TO IDENTIFY HUMAN FACTORS ISSUES

Question	Discussion
Are there any controls that will require significant peak or sustained muscular exertion.	If the applicant chooses to perform analyses as a way to provide data in support of compliance, the FAA Certification Team should review any strength data and analysis methods to ensure that they can be generalized to the flight deck controls in question.
Are there any displays that will require sustained attention	The FAA Certification Team may determine that the ability to time-share attention to the displays may require testing in a full simulation or in flight, in order to replicate the other tasks. In some cases, it may be possible to measure task performance, but subjective assessments are more frequently used and are likely to be more practical.
Are there any pilot actions that will require sustained mental concentration, especially during high workload flight phases, other than that required as part of normal flying skills.	Simulation and/or flight testing, using subjective measures, are typically proposed for such issues, due to the complex interactions between the various flightcrew tasks.
Is this aircraft intended primarily for low cycle rate, long haul operations, or for high cycle rate, short haul operations.	The effects of multiple cycles per crew per day or long duration flights may need to be factored into MOCs.
Is this a new or modified seat design	It may be appropriate to determine that a new seat design should be tested for long-term comfort, to the extent that discomfort is expected to add to fatigue.
Are there functions of time-shared displays or controls that increase pilot workload.	In some cases, the FAA Certification Team may accept analysis intended to show that there is sufficient time available to use the display for multiple purposes (for example, maintenance display functions time-shared with navigation). However, in many other cases, that information is likely to be usable only as supporting data that must be verified in simulation or flight test, depending on the functions being time-shared and the critical scenarios.

Other factors to consider when reviewing the MOC are discussed in Table A–2.

TABLE A–2.—§ 25.771(a): FACTORS TO CONSIDER

Issue	Discussion
Complexity/Level of automation	Navigating though complex menu trees and deciphering or predicting operating modes for complex automation can lead to high concentration and memory demands. These demands can be especially significant if they occur during high stress or workload portions of the flight (for example, during non-normal conditions, severe weather, etc.). System description information, and an analysis of menu complexity and function accessibility, if provided by the applicant, can yield useful supporting data. However, as complexity and level of automation increases, the need for demonstrations and tests increases.
Criticality	A high demand for concentration, especially on a single issue during a critical flight situation, has been shown to result in ''attention tunneling'' or ''channelized attention'' (focusing of attention on one task to the extent that other important tasks receive little or no attention). This phenomenon has been implicated in numerous accidents. The FAA Certification Team should ensure that the proposed MOCs cover such critical situations, if they exist.
Subjectivity of acceptance criteria	Currently available and accepted methods for assessing concentration and mental fatigue usually involve subjective assessment, although certain applicants have employed physiological methods as methods to collect supporting data. It is often useful to compare the proposed design with previously certificated designs that have been shown in service to result in acceptable levels of concentration and fatigue.

Section 25.771(e) [at amdt. 25–4]: ''Vibration and noise characteristics cockpit equipment may not interfere with safe operation of the airplane.''

Discussion: When reviewing the proposed MOC, the FAA Certification Team should ensure that the applicant has carefully considered the types and magnitudes of vibration and noise that may be present under both normal and abnormal conditions. Then, the tasks that may be affected by vibration (for example, display legibility and the operation of controls) and noise (for example, communication and identification of aural alerts) should be identified. Additionally, the methods that could be used to determine whether the vibration or noise will unacceptably interfere with safe operation of the airplane should be identified.

Unfortunately, there are no widely used and accepted vibration standards or testing methods which directly address whether or not pilots will be able to safely operate the airplane under the expected vibration conditions. Existing standards for workplace vibration primarily focus on injury to the worker after long periods of exposure (days, weeks, months), rather than on the ability to perform the required tasks (i.e., continued safe flight and landing).

Actual testing of pilots in representative vibration environment with actual flight deck equipment (seats, controls, displays) can be extremely involved and expensive, especially if an applicant were to be required to develop a test facility with which the pilots could interact as with the actual airplane. The duration of the tests may also present a problem—it may be difficult to find a group of pilots willing to sit on a shaker table for the maximum duration of an extended twin-engine operation (ETOPS) diversion. As a result, showing compliance with this rule can be especially problematic.

Questions to ask when identifying the human factors-related compliance issues are discussed in Table A–3.

TABLE A–2.—§ 25.771(e): QUESTIONS TO IDENTIFY HUMAN FACTORS ISSUES

Question	Discussion
Are there any controls requiring precise dexterity to operate (for example, cursor control devices, touch screens, etc.).	In some cases, the devices may already be in service for non-essential functions. More thorough testing may be warranted if the devices are to be used for essential or critical functions.
Are there fine details of displays that must be interpreted during turbulence or vibration conditions.	(Self-explanatory.)
What are the characteristics (frequency, acceleration, amplitude) of the expected engine fan blade-loss vibrations or other expected vibratory modes.	Are the vibration frequencies the same as any relevant body resonant frequencies (hand, arm, eye, head, abdomen, etc.)? If the pilots are not likely to be exposed to frequencies at body resonances, then testing may not be needed.
To what extent will the seat design dampen or amplify the vibrations that are transmitted from the seat structure, through the seat cushion, to the pilot.	Relatively minor changes to seat cushion design can significantly affect the transmission of vibrations to the pilot. Such changes may warrant testing, especially if frequencies at known body resonances are expected to be present at the seat pan.

Other factors to consider when reviewing the MOC are discussed in Table A–4.

TABLE A–4.—§ 25.771(e): FACTORS TO CONSIDER

Issue	Discussion
Novelty/past experience	Conventional controls, such as pushbuttons and rotary knobs can generally be shown to be compliant via similarity, providing that they have conventional characteristics (size, force/friction, tactile feedback) and the vibration environment is not expected to be severe (see discussion above).
Criticality	Are the tasks that require a high degree of visual resolution or manual dexterity likely to be critical to continued safe flight and landing in situations that result in flight deck vibration? Such a condition may warrant testing, if the controls/displays are non-conventional or if the vibration is expected to be unusual.
Subjectivity of acceptance criteria	Analysis and testing of components could be used to show that no significant vibration problems are present. However, in cases that cannot be clearly disposed of through similarity or analysis, the FAA Certification Team may wish to request testing with human subjects. There is no standardized and accepted subjective measurement method for this requirement. As of the time of publishing this policy statement, the only certification evaluations in an actual vibratory environment have involved a subjective assessment of the acceptability of the vibration, after a short duration exposure.

Other factors relative to finding compliance with § 25.771(e) are:

1. Improved MOCs and standards for this requirement are being considered for development. As the FAA and applicants become more experienced in dealing with

this issue, the FAA will provide more information on MOCs.

2. The FAA Aircraft Certification Offices (ACO) should use care when assessing the proposed MOCs, due to the difficulty and cost of doing full-scale testing. The ACOs should work closely with the applicant to develop sufficient evidence to make a supportable determination regarding the need for such testing.

Section 25.773(a)(1) [at amdt. 25–72]: ''Each pilot compartment must be arranged to give the pilots sufficiently extensive, clear, and undistorted view, to enable them to safely perform any maneuvers within the operating limitations of the airplane, including takeoff, approach, and landing.''

Discussion: The applicant should carefully consider the methods of compliance described in Advisory Circular (AC) 25.773–1, ''Pilot compartment View for Transport Category Airplanes,'' dated January 8, 1993.

Section 25.773(a)(2) [at amdt. 25–72]: ''Each pilot compartment must be free of glare and reflections that could interfere with the normal duties of the minimum flightcrew.''

Discussion: The applicant may be able to develop analytical techniques that identify potential sources of glare and reflections, as a means for reducing the risk of problems identified after the major structural features have been committed. Mock-ups also may be a useful means for early assessments. However, analysis results typically should be verified in an environment with a high degree of geometric and optical fidelity. Both internal sources of reflections (for example, area and instrument lighting) and external sources of reflection (for example, shafting sunlight) so should be considered. Compliance can be greatly affected by the relative geometry of the reflective surfaces (windows, glass instrument faces, etc) and the direct/indirect light sources (instrumentation, area lighting, white shirts, etc). In addition, the reflective characteristics of the surfaces (windows, instruments) can vary greatly with material and manufacturing processes. Therefore, it is important that those surfaces are representative of those that will be present in the airplane.

Factors to consider when reviewing the MOC are listed in Table A–5.

TABLE A–5.—§ 25.773 (a)(2): FACTORS TO CONSIDER

Issue	Discussion
Degree of integration/independence	This means that testing or evaluations usually must be conducted using an environment with accurate geometry.
Criticality	If reflections are likely to be present in the forward windshield, they must be carefully evaluated for the possibility of interference with external visual scanning during critical phases of flight (especially takeoff and landing). Similarly, potential reflections on primary flight displays or other important display surfaces should get special attention.
Subjectivity of acceptance criteria	Even though objective standards for reflectivity do not exist, the FAA Certification Team should encourage applicants to measure the intensity of reflections as an objective means for comparison with existing designs.

Section 25.777(a) [at amdt. 25–46]: ''Each cockpit control must be located to provide convenient operation and to prevent confusion and inadvertent operation.''

Discussion: While applicants sometimes use physical mock-ups for preliminary evaluations, such devices often have insufficient fidelity to allow findings of compliance. Simulators, if available, provide a more powerful evaluation environment, because they allow the evaluation to take place in a flight scenario that may influence convenience and inadvertent operation. Simulator evaluations also may reduce the need for flight testing.

Questions to ask when identifying the human factors-related compliance issues are discussed in Table A–6.

TABLE A–6.—§ 25.777(a): QUESTIONS TO IDENTIFY HUMAN FACTORS ISSUES

Question	Discussion
Are there situations in which a pilot will be required to reach across the centerline of the flight deck to operate controls on the other side (for example, the landing gear handle).	Are there other circumstances where the pilot will need to reach past prominent controls in order to accomplish flight deck tasks, whether or not those tasks are ''required'' for operation of the airplane (for example, reaching for something stowed behind a seat, or reaching for food from the flight attendant)? Such cases may provide justification for the FAA Certification Team to request specific evaluations using computer modeling, mock-ups, the flight simulators, and/or the airplane.
Are there safety consequences if the pilot inadvertently activates a similar control that is in proximity to the control in question.	If safety is not a significant issue, and if the error will be obvious and easy to correct, then the MOCs necessary to fully evaluate the possibility of confusion may be reduced.

Factors to consider when reviewing the MOC are discussed in Table A–7.

TABLE A–7.—§ 25.777(a): FACTORS TO CONSIDER

Issue	Discussion
Complexity/Level of automation	The proposed MOC should address the ease of use and inadvertent operation of control functions that are accessed through menu logic.
Criticality	Determine if the controls for which inadvertent operation has significant safety implications have appropriate guards or other means of protection. Such safeguards typically reduce both inadvertent operation and convenience, so the proposed evaluations should include both aspects.

Section 25.777(c) [at amdt. 25–46]: ''The controls must be located and arranged, with respect to the pilot's seats, so that there is full and unrestricted movement of each control without interference from the cockpit structure or the clothing of the minimum flightcrew when any member of this flightcrew, from 5′2″ to 6′3″ in height, is seated with the seat belt and shoulder harness fastened.''

Discussion: While this rule directly addresses body height, other body dimensions, such as sitting height, sitting shoulder height, arm length, hand size, etc, can have significant effects on the geometric acceptability of the flight deck for pilots within the specified height range. These other dimensions do not necessarily correlate well with height or with each other. The MOC should reasonably account for these variables. The applicant may choose to use analytical methods, such as computer modeling of the flight deck and the pilots, for early risk reduction and to supplement certification evaluations using human subjects. Computer modeling allows for more

control over the dimensions of the pilot model, and thus, may allow the assessment of otherwise unavailable combinations of body dimensions.

The FAA Certification Team should carefully consider the advantages and limitations of each of these methods when assessing the applicant's proposal to use such data in support of findings of compliance. In addition, the FAA Certification Team should usually require final verification in the airplane, because even simulators rarely reproduce all of the aspects of the flight geometry that may be relevant to this requirement.

Section 25.1301(a) [original amdt.]: ''Each item of installed equipment must be of a kind and design appropriate to its intended function.''

Discussion: The applicant might propose a number of methods for showing compliance with this requirement, with respect to human factors. For example, service experience may be an effective means for assessing systems with well-understood, successful crew interfaces, assuming that other factors, such as changes in the operational environment, do not affect the relevance of that experience. System descriptions can be used to define the intended functions of the systems, along with those of the components or other elements of the system (for example, the intended function of each piece of data on a display). Various requirements analysis techniques can be used to show that the information that the pilot needs to perform key tasks is available, usable, and timely. Simulation may be used to verify that properly trained pilots can adequately perform all required tasks, using the controls and displays provided by the design, in realistic scenarios and timelines. Finally, flight tests can be used to investigate specific normal and abnormal operational scenarios to show that the system adequately supports the pilots' tasks, in accordance with the stated intended functions. For additional guidance on electronic display systems, see FAA AC 25–11, Transport Category Airplane Electronic Display Systems,'' dated July 16, 1987,'' sections 6 and 7, as appropriate.

Section 25.1309(b)(3) [at amdt. 25–41]: ''* * * Systems, controls, and associated monitoring and warning means must be designed to minimize crew errors that could create additional hazards.''

Discussion: The applicant may propose analyses of crew procedures in response to system faults. This can be especially useful in cases where the applicant wishes to take certification credit (for example, in a fault tree analysis) for correct pilot response to a system failure. A crew procedure analysis could be supported by qualitative evaluations that compare actual procedures to procedure design philosophies by developing measures of procedure complexity, or by other techniques that focus on procedure characteristics that impact the likelihood of crew errors. Simulation testing can be helpful in demonstrating that the design is not prone to crew errors.

Section 25.1321(a) [at amdt. 25–41]: ''Each flight, navigation, and powerplant instrument for use by any pilot must be plainly visible to him from his station with the minimum practicable deviation from his normal position and line of vision when he is looking forward along the flight path.''

Discussion: The applicant may wish to perform analyses of the visual angles to each of the identified instruments. Final assessments of the acceptability of the visibility of the instruments may require a simulator with a high degree of geometric fidelity and/or the airplane. For more information on electronic display systems, see FAA AC 25–11, section 7, as appropriate.

Section 25.1321(e) [at amdt. 25–41]: ''If a visual indicator is provided to indicate malfunction of an instrument, it must be effective under all probable cockpit lighting conditions.''

Discussion: Demonstrations and tests intended to show that these indications of instrument malfunctions, along with other indications and alerts, are visible under the expected lighting conditions will typically use production quality hardware and careful control of lighting conditions (for example, dark, bright forward field, shafting sunlight). Simulators and aircraft are often used, although supporting data from laboratory testing also may be useful.

Section 25.1523 [at amdt. 25–3]: ''The minimum flightcrew must be established so that it is sufficient for safe operation, considering:

(a) The workload on individual crewmembers;

(b) The accessibility and ease of operation of necessary controls by the appropriate crewmember; and

(c) The kind of operation authorized under § 25.1525.''

Discussion: The criteria used in making the determinations required by this section are set forth in Appendix D of 14 CFR part 25. For additional information, see:

- AC 25.1523–1, ''Minimum Flightcrew,'' dated February 2, 1993; and
- AC 25–11, section 5.b.

Section 25.1543(b) [at amdt. 25–72]: ''Each instrument marking must be clearly visible to the appropriate crewmember.''

Discussion: The applicant may choose to use computer modeling to provide preliminary analysis showing that there are no visual obstructions between the pilot and the instrument markings. Where head movement is necessary, such analyses also can be used to measure its magnitude. Other analysis techniques can be used to establish appropriate font sizes, based on research-based requirements. Mock-ups also can be helpful in some cases. The data collected in these analysis and assessments are typically used to support final verification in the flight deck, using subjects with vision that is representative of the pilot population, in representative lighting conditions. For more information on electronic display systems, see AC 25–11, sections 6 and 7, as appropriate. For more information on marking of power plant instruments, see AC 20–88A, ''Guidelines on the Marking of Aircraft Powerplant Instruments (Displays),'' dated 9/30/85.

2. Specific Human Factors Requirements

Section 25.785(g) [at amdt. 25–88]: ''Each seat at a flight deck station must have a restraint system * * * that permits the flight deck occupant, when seated with the restraint system fastened, to perform all of the occupant's necessary flight deck functions.''

Discussion: The applicant may choose to develop a list of what it considers to be necessary flight deck functions, under normal and abnormal conditions. Methods similar to those used to show compliance with § 25.777 also may be appropriate for this paragraph, with the additional consideration of movement constraints imposed by the full restraint system.

Factors to consider when reviewing the MOC are discussed in Table A–8:

TABLE A–8.—§ 25.785(g): FACTORS TO CONSIDER

Issue	Discussion
Dynamics	If the restraint system could lock-up during turbulence or vibration, and thus restrict reach, the MOC may need to include evaluations under these conditions.

Section 25.785(l) [at amdt. 25–88]: ''The forward observer's seat must be shown to be suitable for use in conducting the necessary enroute inspections.''

Discussion: The applicant may choose to develop a set of requirements (for example, what must be seen and reached) based on the expected tasks to be performed by an inspector. The FAA Certification Team personnel may wish to consult with FAA Flight Standards personnel to validate these requirements. Computer-based analysis and/or mock-ups can be used to develop supporting data (for example, visibility of displays); evaluation of enroute inspection scenarios can be used to verify that all required tasks can be performed. Since the geometric relationship between the observer's seat and the rest of the flight deck (including the pilots) is important, the evaluations often must occur in the actual airplane.

Section 25.1141(a) [at amdt. 25–72]: ''Each powerplant control must be located so that it cannot be inadvertently operated by persons entering, leaving, or moving normally in the cockpit.''

Discussion: This type of assessment typically requires at least a physical mock-up, due to limitations in the ability to adequately model ''normal'' movement in the cockpit. Evaluations should be designed:

- To include cases in which the pilots must reach across the area surrounding the powerplant controls; and
- To look for places where pilots will naturally place their hands and feet during ingress and egress, and during cruise.

Subjective assessments by the FAA Designated Engineering Representative (DER) or FAA pilots would be the most typical method for assessing the likelihood and seriousness of any inadvertent operation of the powerplant controls.

Section 25.1357(d) [original amdt.]: ''If the ability to reset a circuit breaker or replace a fuse is essential to safety during flight, that circuit breaker or fuse must be located and

identified so that it can be readily reset or replaced in flight.''

Discussion: The applicant may choose to use methods similar to those employed for § 25.777 to demonstrate the ability of the pilot to reach the specific circuit protective device(s). The applicant also should consider how to evaluate the ability of the pilot to readily identify the device(s), whether they are installed on a circuit breaker panel or controlled using an electronic device (i.e., display screen on which the circuit breaker status can be displayed and controlled).

A necessary question to ask when identifying the human factors-related compliance issues is discussed in Table A–9.

TABLE A–9.—§ 25.1357(d): QUESTIONS TO IDENTIFY HUMAN FACTORS ISSUES

Question	Discussion
Are there any crew procedures which require the flightcrew to reset a circuit breaker or replace a fuse.	If not, it may be reasonable for an applicant to state this and to provide verification via published flightcrew specific procedures.

Section 25.1381(a)(2) [at amdt. 25–72]: ''The instrument lights must be installed so that * * * (ii) no objectionable reflections are visible to the pilot.''

Discussion: See the discussion of § 25.773(a), above.

3. Specific Crew Interface Requirements

Section 25.773(b)(2)(i) [at amdt. 25–72]: ''The first pilot must have a window that is openable * * * and gives sufficient protection from the elements against impairment of the pilot's vision.''

Discussion: While the applicant may perform analyses to show the visual field through the openable window, due to the nature of the task (landing the airplane by looking out the opened window), it is likely that a flight test would be the most appropriate method of compliance. Assessment of the forces required to open the window under flight conditions also may be needed.

Section 25.1322 [at amdt. 25–38]: ''If warning, caution, or advisory lights are installed in the cockpit, they must, unless otherwise approved by the Administrator, be—

(a) Red, for warning lights (lights indicating a hazard which may require immediate corrective action);

(b) Amber, for caution lights (lights indicating the possible need for future corrective action);

(c) Green for safe operation lights; and

(d) Any other color, including white, for lights not described in paragraphs (a) through (c) of this section, provided the color differs sufficiently from the colors prescribed in paragraphs (a) through (c) of this section to avoid possible confusion.''

Discussion: Compliance with this requirement is typically shown by a description of each of the warning, caution, and advisory lights (or their electronic equivalents). Evaluations may also be useful to verify the chromaticity (for example, red looks red, amber looks amber) and discriminability (i.e., colors can be distinguished reliably from each other) of the colors being used, under the expected lighting levels. These evaluations can be affected by the specific display technology being used, so final evaluation with flight quality hardware is sometimes needed. A description of a well-defined color coding philosophy which is consistently applied across flight deck systems can be used to show how the design avoids ''possible confusion''. For additional information, see AC 25–11, section 5.a.

Appendix B—Related Documents

1. *Advisory Circulars (AC):* The specified sections of the ACs listed below concern selecting a method of compliance (test, inspection, simulation, etc.), rather than identifying specific design features that will generally be accepted as compliant.

a. AC 25.1309–1B, ''System Design and Analysis'' [draft]: This AC identifies certain human factors assessments that should be done as part of the overall safety assessments intended to show compliance with § 25.1309. Section 9 (subparagraphs on ''Crew and Maintenance Actions'') provides some information on determining if failure indications are considered to be recognizable, and if the required actions cause an excessive workload.

b. AC 25–11, ''Transport Category Airplane Electronic Display Systems,'' dated July 16, 1987: This AC applies to systems using cathode ray tube (CRT)-based technology, but the FAA plans to update it to cover other display technologies [for example, liquid crystal displays (LCD)]. The AC is used to support compliance with a number of regulations, including the following, also cited in this policy statement, that are related to human factors aspects of the flightcrew interfaces:

- § 25.771, Pilot compartment.
- § 25.777, Cockpit controls.
- § 25.1141, Powerplant controls: general.
- § 25.1301, Equipment: Function and installation.
- § 25.1309, Equipment, systems, and installations.
- § 25.1322, Warning, caution, and advisory lights.
- § 25.1381, Instrument lights.
- § 25.1523, Minimum flightcrew.
- § 25.1543, Instrument markings: general.

Several sections of AC 25–11 identify display system characteristics that can be verified by inspection. The information provided in the following sections of the AC may be useful in assessing the applicant's other proposed evaluation methods:

- *Section 4.b.(1): General Certification Considerations, Compliance Considerations, Human Factors.* This section includes a discussion of the use of simulation and in-flight evaluations.
- *Section 6.: Display Visual Characteristics.* Various subsections of this section contain guidance on evaluation and test conditions and methods.

c. AC 20–88A, ''Guidelines on the Markings of Aircraft Powerplant Instruments (Displays),'' dated September 30, 1985: This AC provides information related to marking of aircraft powerplant instruments and electronic displays (cathode ray tubes, etc.). The AC is used to support compliance with a number of regulations, including the following, that are related to human factors aspects of the flightcrew interfaces:

- § 25.1541, Placards and markings: General.
- § 25.1543, Instrument markings: General.
- § 25.1549, Powerplant and auxiliary power unit instruments.

d. AC 25.1523–1, ''Minimum Flightcrew,'' dated February 2, 1993: This AC provides information related to compliance with § 25.1523 and Appendix D of 14 CFR part 25, which contain the certification requirements for the minimum number of flightcrew personnel on transport category airplanes.

e. AC 25.773–1, ''Pilot Compartment View Design Considerations,'' dated January 8, 1993: This AC defines a method for determining the clear view area of the flight deck windows. In practice, this approach can be carried out using direct measurements of an actual flight deck (or high fidelity physical flight deck), or using computer analysis of a 3-D computer aided design (CAD) model of the flight deck. Referenced in this AC is Society of Automotive Engineers (SAE) Aerospace Recommended Practice (ARP) 4101/2 (which replaced AS 580B), ''Pilot Visibility from the Flight Deck,'' dated February 1989.

2. Other References

a. Technical Report DPT/FAA/RD–93/5, ''Human Factors for Flight Deck Certification Personnel,'' dated July 1993, which can be ordered through the National Technical Information Service (http://www.ntis.gov/): Key chapters of this document include:

- *Chapter 8:* Timesharing, Workload, and Human Error.
- *Chapter 11:* Workload Assessment.
- *Chapter 12:* Human Factors Testing and Evaluation.

Appendix C—Sample Human Factors Methods of Compliance Briefing

This sample briefing is intended to provide examples of the types of information that could be included in such a briefing. Keep the following in mind while reviewing it:

- It is based on a *totally hypothetical* certification program, and no connection to any real system or certification program is intended or implied. For more information on this hypothetical program, see the FAA policy on human factors certification plans, contained Appendix C of Policy Statement No. ANM–99–2. The extracts from the human

factors certification compliance matrix contained in this policy statement are drawn from that appendix.

• This sample briefing should not be considered comprehensive. The examples are intended to be illustrative, but do not necessarily include all of the issues, even for the hypothetical program.

• The methods of compliance are intended to show the methods that a hypothetical applicant might have proposed for the project. It should not be construed as describing an acceptable list of methods for any real program. Such methods would have to be discussed and agreed upon within the context of a specific program.

• The ''Deliverable Products'' column in the compliance matrix identifies what the hypothetical applicant will produce to substantiate compliance. The titles of reports represent examples of how an applicant might choose to package the information.

• Finally, the sample briefing is not intended to specify the format of how this information is provided to the FAA; rather, it is meant to provide guidance only on an acceptable structure and recommended content. Alternative methods for providing this information are acceptable, such as adding it to the Certification Plan or providing it in a separate document. For large, complex projects, it could be a part of the overall project, without being a separate piece. The primary intent is to illustrate how an applicant could provide information to the FAA, explaining why and how the proposed methods of compliance are sufficient.

[Hypothetical]

Human Factors Certification Methods of Compliance for the Electronic Approach Chart System (EACS)

1. Introduction

a. Project: This project seeks a Supplemental Type Certificate (STC) for the installation of an Electronic Approach Chart System (EACS) in Guerin Model 522 airplanes. The intent of the EACS is to provide an alternative to the use of paper approach charts.

b. Installation: The ECAS will be installed so that it is physically and functionally integrated into the flight deck.

c. Data loading: System data will use existing on-board data loading capabilities.

d. System type: The EACS will be certified as a non-essential system.

2. System Description

a. Intended Function: The EACS uses a panel-mounted Active Matrix Liquid Crystal Display (AMLCD) to display approach charts for the pilots to use on the ground and in flight. The key functions include the following:

(1) *During the preflight preparation:*

(a) The pilot will use the system to call up and review the approach charts for the destination airport and selected alternates.

(b) The pilot will be able to ''mark'' the appropriate charts for quick retrieval later in the flight.

(c) If initiated by the pilot, the system will be able to query the Flight Management System (FMS) to pre-identify the appropriate charts, based on the flight plan.

(2) *During flight (normal operations):*

(a) The pilot will quickly access the pre-selected approach charts. Charts that were not pre-selected also will be accessible.

(b) The pilot will be able to manipulate the display of the chart to show only the information relative to the planned route of flight.

(c) The pilot will be able to select the appropriate approach parameters (transition, approach navigation aids, minimums, etc.) using the EACS. Upon pilot initiation, the EACS will load these selections into the other systems on the airplane [for example, the approach navaids will be sent to the FMS for autotuning, and decision height (DH) will be sent to the altitude alerting system and display system]. For a complete list of EACS functions, see the EACS System Description Document.

(3) *During flight (non-normal operations, i.e., requiring an emergency diversion):* In addition to those functions available for normal operations, the EACS provides the following functionality to support emergency diversions:

(a) When the pilot selects the ALTERNATE AIRPORT function on the FMS, the FMS automatically identifies the five nearest airports that meet the landing requirements for the airplane. These airports will be automatically transmitted to the EACS, which will preselect them (mark them for quick retrieval).

(b) At the pilot's request, the EACS will display a listing of the diversion airports and allow the pilot to quickly review the approach charts and select the desired approach. As in normal operations, this selection will be automatically transmitted to the FMS and other using systems.

Note: For more detail on the EACS, see the Human Factors Certification Plan and System Description Document.

3. Proposed Methods of Compliance

a. The following slides provide a discussion of the proposed Method of Compliance for each of the human factors rules identified in the EACS Human Factors Certification Plan.

b. The rules are organized into the following categories for discussion:

(1) Flightcrew workload.
(2) Noise and vibration.
(3) Internal/external vision.
(4) Flight deck lighting.
(5) Flight deck arrangement.
(6) System failures and alerting.
(7) Miscellaneous.

4. Simulator

a. A rudimentary PC-based simulator will be used for some evaluations.

b. The simulator has representative (generic) flight controls, autopilot, and performance models. (The EACS has no interaction with aircraft performance, so high fidelity is not needed.)

c. The simulator includes the same flight management computer (FMC) and main displays as the STC configuration. The EACS will be installed only on the captain's side in the simulator. Any evaluations requiring participation by both crew members will be conducted on the test airplane.

d. Installation geometry of the simulator is approximately equivalent to the actual installation. Any evaluations requiring accurate installation geometry will be conducted on the test airplane.

e. Because EACS does not interact with other airplane systems (pressurization, hydraulics, etc), those systems are not replicated in the simulator. It will be possible to fail the EACS, simulating an electrical bus failure.

f. The simulator will be used primarily to assess EACS/FMS interaction and to perform comparisons between use of paper charts and EACS.

5. Flightcrew Workload

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
25.771(a) [at amdt. 25–4].	Each pilot compartment and its equipment must allow the minimum flightcrew to perform their duties without unreasonable concentration or fatigue.	• Analysis • Simulator evaluations • Flight test	Workload Certification Report.
25.1523 [at amdt. 25–3].	The minimum flightcrew must be established so that it is sufficient for safe operation, considering: (a) The workload on individual crewmembers; (b) The accessibility and ease of operation of necessary controls by the appropriate crewmember; and	• Simulator demonstration • Flight test	• Demonstration Report. • Flight Test Report.

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
	(c) the kind of operation authorized under § 25.1525. The criteria used in making the determinations required by this section are set forth in Appendix D of 14 CFR part 25.		

a. The EACS functions are centered around the selection and review of approach charts. Although we do not anticipate any certification issues with respect to showing compliance with the above rules (workload reduction is a central goal for this system), we will perform a workload evaluation in order to show the benefits of the system.

b. Analysis will be used to identify all of the pilot activities associated with identification, retrieval, review, and use of the charts, along with any other tasks necessary for operation of the EACS.

c. Simulator evaluations or demonstrations will be used to measure task times and error rates for conventional charts and the EACS. Subjective measures of task difficulty and workload will be taken. Normal and non-normal scenarios will be included. Subjects will include DER and customer pilots.

d. Limited flight tests with FAA pilots will be used to confirm the analyses and simulator tests.

6. Vibration and Noise

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
25.771(e) [at amdt. 25–4].	Vibration and noise characteristics of cockpit equipment may not interfere with safe operation of the airplane.	Flight test	Flight Test Report.

a. Controls are conventional in design and similar to other certificated systems:

(1) Function keys [similar to keys on current Master Control Display Unit (MCDU)].

(2) Touch screen [similar to certain Aircraft Communications Addressing and Reporting System (ACARS) units].

(3) Brightness control (conventional rotary knob).

b. The EACS is a supplemental system, so we suggest that full testing of usability in high vibration and turbulence is not required (pilot can revert to paper charts).

c. During flight test program, turbulence will be sought out for pilot subjective evaluations of EACS usability. However, certification will not be contingent upon testing in turbulence.

7. Internal/External Vision and Flight Deck Lighting

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
25.773(a)(1) [at amdt. 25–72].	Each pilot compartment must be arranged to give the pilots sufficiently extensive, clear, and undistorted view, to enable them to safely perform any maneuvers within the operating limitations of the airplane, including takeoff, approach, and landing.	Similarity	Vision Certification Report.
25.1321(a) [at amdt. 25–41].	* * * Each flight, navigation, and powerplant instrument for use by any pilot must be plainly visible to him from his station with the minimum practicable deviation from his normal position and line of vision when he is looking forward along the flight path.	• System description • Analysis • Flight test	• Installation Drawings • Vision Certification Report • Flight Test Report.
25.1543(b) [at amdt. 25–72].	Each instrument marking must be clearly visible to the appropriate crewmember.	Ground test	• Vision Certification Report • Ground Test Report.

a. Because this system will be fully integrated into the existing instrument panels, external vision will be unaffected by the installation.

b. Because all pilots are intended to position themselves at the Design Eye Reference Point (DERP), there will be little pilot-to-pilot variability with respect to the visibility of the display. Thus, visibility will be easily confirmed during flight test. Risk for this installation is expected to be very low.

c. The visual angles from the DERP to the EACS will be determined and compared to other display systems, as well as the clipboard where pilots currently place their paper charts.

d. Readability will be assessed (using a questionnaire) in the airplane during ground testing, concurrently with the lighting tests. This will allow evaluation of readability under all expected lighting conditions.

8. Flight Deck Lighting

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
25.773(a)(2) [at amdt. 25. 72].	Each pilot compartment must be free of glare and reflections that could interfere with the normal duties of the minimum flightcrew.	Ground test	Lighting Certification Report.
25.1321(e) [at amdt. 25–41].	If a visual indicator is provided to indicate malfunction of an instrument, it must be effective under all probable cockpit lighting conditions.	• Similarity • Flight test • Ground test	• System Description and Statement of Similarity. • Flight Test Report.
25.1381(a)(2) [at amdt. 25–72].	The instrument lights must be installed so that (ii) no objectionable reflections are visible to the pilot.	Ground test	Flight Test Report.

a. This system uses a conventional normally white Active Matrix Liquid Crystal Display (AMLCD) display.

b. The AMLCD is provided by a vendor who has produced similar display glass for other previously certificated flight deck systems.

c. In general, visibility/lighting risk should be low for this display.

d. Ground tests will cover the following lighting cases:

(1) Night (windows will be covered), and

(2) Shafting sunlight (using a hand held spotlight).

e. Flight tests will cover the following lighting cases:

(1) Bright forward field (flying into brightly lit clouds), and

(2) Bright forward point light source (flying toward the sun).

f. Reflections that might be caused by the EACS, or that might be present on the EACS display, will be assessed subjectively during the ground test.

9. Flight Deck Arrangement

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
25.777(a) [at amdt. 25–46].	Each cockpit control must be located to provide convenient operation and to prevent confusion and inadvertent operation.	• Ground test • Flight test	Flight Deck Anthropometry Certification Report.
25.777(c) [at amdt. 25–46].	The controls must be located and arranged, with respect to the pilot's seats, so that there is full and unrestricted movement of each control without interference from the cockpit structure or the clothing of the minimum flightcrew when any member of this flightcrew, from 5′2″ to 6′3″ in height, is seated with the seat belt and shoulder harness fastened.	Ground test	Flight Deck Anthropometry Certification Report.

a. Reach to the EACS will be shown by using a representative sample of people within the required height range.

b. Ground tests will show that the EACS does not interfere with use of the nose wheel steering tiller and oxygen masks (the only controls in the vicinity of the EACS).

10. Miscellaneous:

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
§ 25.1309(b)(3) [at amdt. 25–41].	. . . Systems, controls, and associated monitoring and warning means must be designed to minimize crew errors that could create additional hazards.	÷ Hazard assessment • Simulator demonstration	• Fault Tree Analyses. • Demonstration Report.
§ 25.1322 [at amdt. 25–38].	If warning, caution, or advisory lights are installed in the cockpit, they must, unless ortherwise approved by the Administrator, be— (a) Red, for warning lights (lights indicating a hazard which may require immediate corrective action); (b) Amber, for caution lights (lights indicating the possible need for future corrective action); (c) Green for safe operation lights; and (d) Any other color, including white, for lights not described in paragraphs (a) through (c) of this section, provided the color differs sufficiently from the colors prescribed in paragraphs (a) through (c) of this section to avoid possible confusion.	Configuration description	System Description Document.

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
§ 25.773(b)(2)(i)[at amdt. 25–72].	The first pilot must have a window that is openable * * * and gives sufficient protection from the elements against impairment of the pilot's vision.	Ground test (to verify no interference with window opening)	Flight Test Report.
§ 25.1301(a) [original amdt.].	Each item of installed equipment must be of a kind and design appropriate to its Document intended function.	• System description • Simulator demonstration	Flight test • System Description Document. • Demonstration Report. • Flight Test Report.

a. Regarding § 25.1309(b)(3):

(1) The EACS failure annunciations, along with their associated crew procedures, will be demonstrated in the simulator.

(2) The annunciation, data transfer inhibits, and crew procedures are very simple and straight-forward. We believe this to be a very low risk issue.

b. Regarding § 25.1301(a):

(1) A checklist of all functions (listed in the System Description Document) involving flightcrew interfaces will be developed.

(2) The DER and FAA pilots will use this checklist throughout the demonstration and test program to verify that all intended functions are satisfactorily implemented.

Appendix D—Information on the Use of Applicant-Conducted Human Factors Evaluations, Assessments, and Analyses in Support of Certification

1. What Are the Benefits of Evaluations?

The FAA recognizes the benefits of early and continuing human factors evaluations, assessments, and analyses (from here on referred to as ''evaluations'') during the applicant's design process. Such evaluations have several potential benefits:

a. *Human factors or flight crew interface problems can be identified in a timely manner,* so changes can be made with acceptable technical, schedule, and economic impacts. This can help foster better designs with fewer certification risks and fewer last minute design changes. Design changes that are incorporated early also are more likely to be well-integrated into the design, rather than quick ''patches'' needed to ''plug holes.''

b. *Good aspects of the design can be confirmed early,* which can increase applicant and FAA confidence. Such confidence, especially with respect to human factors issues, can reduce the amount of more costly testing (especially flight testing).

c. *Cooperation between the FAA and the applicant* on these evaluations can give the FAA more overall confidence in the applicant's methods and processes with respect to human factors issues.

d. *The applicant may choose to conduct evaluations using a variety* of pilots, with different backgrounds and levels of experience. Such tests and evaluations can provide valuable insights into how the well the airplane or system will function with line pilots.

2. Are Evaluations Required?

While such human factors evaluations are not required by current FAA regulations or advisory material, many applicants routinely perform them as part of their normal design development processes. The FAA should encourage all applicants to conduct such evaluations, when warranted by the nature of the design being developed. This policy does not establish any new requirements for such evaluations. Instead, the FAA wishes to provide incentives by establishing an explicit process by which applicants can use these evaluations to reduce certification risk if they choose to do so.

3. Are Evaluations Necessary To Show Compliance?

These evaluations, in and of themselves, should never be considered to be necessary or sufficient to show compliance with the regulations. However, in situations where compliance or non-compliance is not obvious and clear-cut, applicants may wish to use such data to support compliance decisions. The FAA personnel should take note of the results of evaluations presented for consideration by applicants, providing that the FAA agrees the results are relevant to the compliance findings.

4. How Should the Evaluations Be Conducted?

Because these evaluations can take a variety of forms, the FAA and the applicant should discuss them fully to understand the capabilities and limitations of the evaluations and the conclusions that can be drawn from them.

This policy will not establish a specific set of recommendations for these evaluations. The requirements for any specific evaluation that an applicant might propose would be influenced by several factors, including those listed as follows. The FAA and applicant should discuss these factors.

- The level of similarity between the tested flightcrew interface (including displays, controls, procedures, system performance) and the expected characteristics of the system (hardware and software) that will be certified.
- The areas of certification risk related to human factors. The design characteristics and the related regulations should both be considered.
- The pilots (or others) that will be used in the evaluations.
- The types of data that will be collected (objective vs. subjective, performance vs. opinion).
- The types of conclusions that the applicant hopes to derive, based on the evaluations.

5. When Should the Evaluation Be Planned and Coordinated With the FAA?

It would be desirable for the applicant to identify the types of evaluations that will be conducted when certification planning is in progress, if the applicant wishes to use such evaluations as part of their overall data collection effort in support of certification. Applicants should be encouraged to discuss in some detail with the FAA the evaluations they are developing. In most cases, it is appropriate for FAA personnel to ask for an opportunity to review the tested configuration and the test scenarios. This will allow the FAA personnel to determine whether the evaluations are appropriate and relevant for the compliance issues under consideration.

However, the FAA recognizes that such evaluations may be conceived and planned later during the development cycle. In such cases, it is acceptable for the applicant to communicate such plans to the FAA as they develop, so that agreement can be reached on the appropriateness of the evaluations with respect to certification. If the applicant has already developed a certification plan, it may be useful to update the certification plan as a way to document the intent to use such evaluations.

Finally, the FAA recognizes that the applicant may collect data during evaluations without intending to use the evaluations to support certification, but may achieve results that are subsequently believed to be relevant to certification. Under these circumstances, it is acceptable for the applicant to describe the evaluations to the FAA and request consideration of the results, even though the evaluations were not part of the certification plans.

6. How Should Evaluation Results Be Interpreted?

In order for applicants to consider such evaluations to be a way to reduce rather than increase certification risk, some latitude in interpreting evaluation results must be permitted, especially in view of the issues described above.

For example, the applicant should feel confident collecting and then presenting evaluations that include data from subjects who experienced difficulties or who provided negative comments on the design. Such data should be considered a normal part of such development testing, and in some cases, point out the strength and value of such testing. In such situations, applicants should be given the opportunity to explain causes of the reported problems and how the features of the design have been modified to

account for the problems. Unlike conventional certification testing for systems, the applicant should not be expected to repeat the evaluations in order to ''prove'' that the problems have been mitigated. Rather, the nature of the problems, the explanations, and the design modifications can all be used to form the basis for the FAA's overall assessment of the results and the relevance of those results to certification.

7. Summary

In summary, this policy is intended to provide an incentive to applicants, so that they will conduct effective human factors evaluations during the design phase of a program. Involvement of the FAA during the design phase is also a desired, but not a required, outcome.

This policy should not be used by FAA personnel to force such evaluations as part of the certification process. In other words, there should be no penalties, either formal or informal, for an applicant who chooses not to use such evaluations as part of their certification effort.

However, if the applicant chooses to submit the results of such evaluations, and the FAA agrees that the evaluations were appropriate, then the FAA should consider the results of the evaluations as part of their overall determination of the amount of additional testing (or other methods of compliance) required to show compliance with the regulations.

Applicants should be encouraged to keep the FAA involved. This will improve the quality and value of the evaluations (with respect to certification), foster FAA confidence in the applicant's evaluation methods and processes, and maximize the benefit of the evaluations.

Issued in Renton, Washington, on May 8, 2001.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12275 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Final Environmental Impact Statement; Douglas County, CO

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, the FHWA, in cooperation with the Colorado Department of Transportation (CDOT), have prepared a Final Environmental Impact Statement (EIS) for proposed transportation improvements in the South I–25 Corridor and US 85 Corridor of the Denver, Colorado metropolitan area. The project is within Douglas County. The Final EIS identifies the Preferred Alternative and the Other Alternative and their associated environmental impacts. Interested citizens are invited to review the Final EIS and submit comments. Copies of the Final EIS may be obtained by telephoning or writing the contact person list below under Addresses. Public reading copies of the Final EIS are available at the locations listed under Supplementary Information.

DATES: A 30-day public review period will begin on May 11, 2001 and conclude on June 11, 2001. Written comments on the alternatives and impacts to be considered must be received by CDOT by June 11, 2001. Two public hearings to receive oral comments on the Final EIS will be held in Castle Rock and Sedalia.

ADDRESSES: Written comments on the Final EIS should be addressed to Wes Goff, Project Manager, Colorado Department of Transportation, South I–25 Corridor and US 85 Corridor, 18500 East Colfax Avenue, Aurora, CO 80011. Requests for a copy of the Final EIS may be addressed to Ms. Wes Goff at the address above. Please see Supplementary Information section for a listing of the available documents and formats in which they may be obtained. Copies of the Final EIS are also available for public inspection and review. See Supplementary Information section for locations.

FOR FURTHER INFORMATION CONTACT: To request copies of the Final EIS or for additional information, contact: Mr. Scott Sands, FHWA, Colorado Division, 555 Zang Street, Room 250, Lakewood, CO, 80228, Telephone: (303) 969–6730 extension 362; or Mr. Wes Goff, Colorado Department of Transportation, Region 1, 18500 East Colfax Avenue, Aurora, CO 80011, Telephone: (303) 757–9647.

SUPPLEMENTARY INFORMATION:

Hearing Dates and Locations:

Tuesday, June 5, 2001: Louviers Village Club House (5 p.m.–7:30 p.m.)

Thursday, June 7, 2001: Douglas County Building (5 p.m.–7:30 p.m.)

Copies of the Final EIS are available in hard copy format for public inspection at:

- City of Lone Tree, 6399 S. Fiddlers Green Cr., Ste. 102, Greenwood Village, CO 80111, 303–779–4525
- CDOT Arapahoe Residency, 359 Inverness Drive South, Suite K, Englewood, CO 80112, 303–790–1020
- CDOT Office of Environmental Services, 1325 South Colorado Boulevard, Suite B400, Denver, CO 80222, 303–757–9259
- CDOT Region 1, 18500 E Colfax Avenue, Aurora, CO 80010, 303–757–9371
- Douglas County Planning Department, 100 Third Street, Castle Rock, CO 80104, 303–660–7490
- Federal Highway Administration, 555 Zang Street, Room 250, Lakewood, Co 80228, 303–969–6730
- Highlands Ranch Library, 48 West Springer Drive, Littleton, CO 80129–2314, 303–791–7703
- Lone Tree Library, 8827 Lone Tree Parkway, Lone Tree, CO 80124–8961, 303–799–4446
- Louviers Library, 7885 Louviers Boulevard, Louviers, CO 80131–9900, 303–791–7323
- Parker Library, 10851 South Crossroads Drive, Parker, CO 80134–9081, 303–841–3503
- PBS&J, 5500 Greenwood Plaza Blvd., Suite 150, Englewood, CO 80111, 303–221–7275
- Philip S. Miller Library, 961 S Plum Creek Road, Castle Rock, CO 80104, 303–688–5157
- Town of Castle Rock, 100 Wilcox Street, Castle Rock, CO 80104
- The document is also available on the project Website: www.southi25.com

Background

This Final EIS provides a detailed evaluation of the South I–25 Corridor and US 85 Corridor improvement project. The project corridors both lie within Douglas County, Colorado. The I–25 Corridor extends from C–470 at approximate milepost 195 to the southern limit of Castle Rock at approximate milepost 178 and the US 85 Corridor extends from C–470 at approximate milepost 200 to Castle Rock at approximate milepost 184. This Final EIS includes an examination of the purpose and need, alternatives under consideration, travel demand, affected environment, environmental consequences, and mitigation measures as a result of the improvements under consideration. Three alternatives, including the No-Action Alternatives, are considered for improvements.

The FHWA, the CDOT, and other local agencies invite interested individuals, organizations, and Federal, State, and local agencies to comment on the evaluated alternatives and associated social, economic, or

environmental impacts related to the alternatives.

Edrie Vinson,

Environmental Program Manager, Federal Highway Administration, Lakewood, Colorado.

[FR Doc. 01–12344 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 8, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 15, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1461.

Regulation Project Number: INTL–24–94 Final.

Type of Review: Extension.

Title: Taxpayer Identifying Numbers (TINs).

Description: This regulation relates to requirements for furnishing a taxpayer identifying number on returns, statements, or other documents. Procedures are provided for requesting a taxpayer identifying number for certain alien individuals for whom a social security number is not available. The regulation also requires foreign persons to furnish a taxpayer identifying number of their tax returns.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 1.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.

Frequency of Response: On occasion, Annually.

Estimated Total Reporting/Recordkeeping Burden: 1 hour.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–12333 Filed 5–15–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 8, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 15, 2001, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0181.

Form Number: IRS Form 4768.

Type of Review: Extension.

Title: Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.

Description: Form 4768 is used by estates to request an extension of time to file an estate (and GST) taxes and to explain why the extension should be granted. IRS uses the information to decide whether the extension should be granted.

Respondents: Individuals or households, business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 18,500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 13 min.;
Learning about the law or the form: 16 min.;
Preparing the form: 22 min.;
Copying, assembling, and sending the form to the IRS: 20 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 22,200 hours.

OMB Number: 1545–0201.

Form Number: IRS Form 5308.

Type of Review: Revision.

Title: Request for Change in Plan/Trust Year.

Description: Form 5308 is used to request permission to change the plan or rust year for a pension benefit plan. The information submitted is used in determining whether IRS should grant permission for the change.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 480.

Estimated Burden Hours Per Respondent/Recordkeeper: 41 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 325 hours.

OMB Number: 1545–1212.

Form Number: IRS Form 706–QDT.

Type of Review: Extension.

Title: U.S. Estate Tax Return for Qualified Domestic Trusts.

Description: Form 706–QDT is used by the trustee or the designated filer to compute and report the Federal estate tax imposed on qualified domestic trusts by Internal Revenue Code (IRC) section 2056A. IRS uses the information to enforce this tax and to verify that the tax has been properly computed.

Respondents: Individuals or households, business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 80.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 1 hr., 12 min.;
Learning about the law or the form: 42 min.;
Preparing the form: 1 hr., 30 min.;
Copying, assembling, and sending the form to the IRS: 1 hr., 3 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 357 hours.

OMB Number: 1545–1733.

Form Number: IRS Form 720–CS.

Type of Review: Extension.

Title: Carrier Summary Report.

Description: Representatives of the motor fuel industry, state governments, and the Federal government are working to ensure compliance with excise taxes on motor fuels. This joint effort has resulted in a system to track the movement of all products to and from terminals. Form 720–CS is an information return that will be used by carriers to report their monthly deliveries and receipts of products to and from terminals.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 475.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 12 hr., 10 min.;
Learning about the law or the form: 30 min.;

Preparing and sending the form to the IRS: 43 min.

Frequency of Response: Monthly.

Estimated Total Reporting/Recordkeeping Burden: 148,485 hours.

OMB Number: 1545–1734.

Form Number: IRS Form 720–TO.

Type of Review: Extension.

Title: Terminal Operator Report.

Description: Representatives of the motor fuel industry, state governments, and the Federal government are working to ensure compliance with excise taxes on motor fuels. This joint effort has resulted in a system to track the movement of all products to and from terminals. Form 720–TO is an information return that will be used by terminal operators to report their monthly receipts and disbursements of products.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 1,500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 18 hr., 52 min.;

Learning about the law or the form: 30 min.;

Preparing and sending the form to the IRS: 49 min.

Frequency of Response: Monthly.

Estimated Total Reporting/Recordkeeping Burden: 2,285,280 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–12334 Filed 5–15–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

May 10, 2001.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain a copy of the submission by calling the Acting OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the Acting OTS Clearance Officer, Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to: *infocollection.comments@ots.treas.gov.*

DATES: Submit written comments on or before June 15, 2001.

OMB Number: 1550–0062.

Form Number: Not applicable.

Type of Review: Renewal.

Title: Minimum Security Devices and Procedures.

Description: The Bank Protection Act and OTS implementing regulations require thrifts to establish security devices and procedures. Written security programs allow OTS to evaluate whether thrifts have adopted policies and procedures to ensure compliance with the law and regulations. FDIC, OCC, and FRB have substantially similar regulations.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses: 1,068.

Estimated Burden Hours Per Response: 2.

Frequency of Response: 1 per year.

Estimated Total Reporting Burden: 2,136.

Acting Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation Division.

[FR Doc. 01–12382 Filed 5–15–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

May 10, 2001.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain a copy of the submission by calling the Acting OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the Acting OTS Clearance Officer, Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to: *infocollection.comments@ots.treas.gov.*

DATES: Submit written comments on or before June 15, 2001.

OMB Number: 1550–0030.

Form Number: OTS Forms 1344 and 1561.

Type of Review: Renewal.

Title: Application for Issuance of Subordinated Debt Securities/Notice for Issuance of Subordinated Debt or Mandatorily Redeemable Preferred Stock.

Description: The information provided to OTS issued to determine if the proposed issuance of securities will benefit the thrift institution or create an unreasonable risk to the Savings Association Insurance Fund (SAIF).

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses:

Type of information collection	Number of respondents	Number of responses per respondent	Hours per response	Annual totals
Application	1	1	60	60
Notice	6	1	42	252

Estimated Burden Hours Per Response: See chart above.

Frequency of Response: 1 per year.

Estimated Total Reporting Burden: 312.

Acting Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation Division.

[FR Doc. 01–12383 Filed 5–15–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–5: OTS Nos. H–3746 and 04232]

Globe Bancorp, Inc., Metairie, LA; Approval of Conversion Application

Notice is hereby given that on May 10, 2001, the Director, Examination Policy, Office of Thrift Supervision, or his designee, acting pursuant to delegated authority, approved the application of Globe Homestead Federal Savings Association, Metairie, Louisiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 225 E. John Carpenter Freeway, Suite 500, Irving, Texas 75062–2326.

Dated: May 11, 2001.

By the Office of Thrift Supervision,

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 01–12264 Filed 5–15–01; 8:45 am]

BILLING CODE 6720–01–M

Corrections

Federal Register
Vol. 66, No. 95
Wednesday, May 16, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–6920–6]

RIN 2040–AD58

Unregulated Contaminant Monitoring Regulation for Public Water Systems; Analytical Methods of List 2 Contaminants; Clarifications to the Unregulated Contaminant Monitoring Regulation

Correction

In rule document 01–59 beginning on page 2273 in the issue of Thursday, January 11, 2001, make the following corrections:

1. On page 2302, in Table 1.—Unregulated Contaminant Monitoring Reporting Requirements, item 15 should read as follows:

TABLE 1.—UNREGULATED CONTAMINANT MONITORING REPORTING REQUIREMENTS

Data Element	Definition
15. Analytical Accuracy	Accuracy describes how close a result is to the true value measured through the use of spiked field samples. For purposes of unregulated contaminant monitoring, accuracy is defined as the percent recovery of the contaminant in the spiked matrix sample analyzed in the same analytical batch as the sample result being reported and calculated using: % recovery = [(amt. found in spiked sample—amt. found in sample)/amt. spiked] × 100%.

2. On page 2303, in Table 1.—Unregulated Contaminant Monitoring Regulation (1999) List, the entry for ''Perchlorate'' should read as follows:

TABLE 1.—UNREGULATED CONTAMINANT MONITORING REGULATION (1999) LIST

List 1—assessment monitoring chemical contaminants					
1-contaminant	2–CAS registry number	3-analytical methods	4-minimum reporting level	5-sampling location	6-period during which monitoring to be completed
Perchlorate	14797–73–0	EPA Method 314.0 [l]	4 μg/L [m]	EPTDS [f]	2001–2003

3. On page 2304, in the table titled ''List 2—screening survey chemical contaminants'', the entry for ''Terbufos'' should read as follows:

List 2—screening survey chemical contaminants

1-contaminant	2-CAS registry number	3-Analytical methods	4-Minimum reporting level	5-sampling location	6-Period during which monitoring to be completed
Terbufos	13071–79-9	EPA Method 526 [a]	0.5 µg/L [f]	EPTDS [e]	2001—Selected Systems serving ≤10,000 persons; 2002-Selected systems serving > 10,000 persons.

[FR Doc. C1–59 Filed 5–15–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

USCG–2001–8659

RIN 2115–AG06

Notification of Arrival: Addition of Charterer to Required Information

Correction

In proposed rule document 01–10838 beginning on page 21710 in the issue of Tuesday, May 1, 2001, make the following corrections:

§160.211 [Corrected]

1. On page 21715, in the second column, in amendatory instruction 5.b., in the second line ''all'' should read ''add''.

§160.213 [Corrected]

2. On page 21715, in the second column, in amendatory instruction 6.b., in the third line ''read add'' should read ''reads''.

[FR Doc. C1–10838 Filed 5–15–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
May 16, 2001

Part II

Environmental Protection Agency

40 CFR Part 266

Storage, Treatment, Transportation, and Disposal of Mixed Wastes; Final Rule

40 CFR Parts 261 and 268

Hazardous Waste Identification Rule (HWIR); Revisions to Mixture and Derived-From Rules; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 266

[FRL–6975–1]

RIN 2050–AE45

Storage, Treatment, Transportation, and Disposal of Mixed Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today finalizing its proposal to provide increased flexibility to facilities that manage low-level mixed waste (LLMW) and technologically enhanced naturally occurring and/or accelerator-produced radioactive material (NARM) containing hazardous waste. The final rule reduces dual regulation of LLMW, which is subject to the Resource Conservation and Recovery Act (RCRA) and to the Atomic Energy Act (AEA). This final rule conditionally exempts from RCRA hazardous waste management low-level mixed wastes during storage and treatment. The storage and treatment exemption in today's rule requires the use of tanks or containers to store or treat the waste and applies only to low-level mixed waste that meets the specified conditions and is generated under a single Nuclear Regulatory Commission (NRC) or NRC Agreement State license.

Today's rule also exempts LLMW and hazardous NARM waste from RCRA manifest, transportation, and disposal requirements when specified conditions are met. Under this conditional exemption, the waste remains subject to manifest, transport, and disposal requirements under the NRC (or NRC Agreement State) regulations for low-level radioactive waste (LLW) or eligible NARM.

DATES: This final rule is effective November 13, 2001.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC) located at Crystal Gateway One, First Floor, 1235 Jefferson Davis Highway, Arlington, Virginia. The Docket Identification Number is F–2001–ML2F–FFFFF. The RIC is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, except for Federal holidays. To review docket materials you should make an appointment by calling (703) 603–9230. You may copy up to 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 (toll free), or TDD (800) 553–7672 (hearing impaired). In the Washington, DC metropolitan area call (703) 412–9810 or TDD (703) 412–3323 (hearing impaired). For information on this rule, contact Nancy Hunt at (703) 308–8762 or Chris Rhyne at (703) 308–8658. They are in the Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Use this address to access the rule electronically on the Internet: http://www.epa.gov/epaoswer/hazwaste/radio/:

The official record for this rule will be kept in paper form. Accordingly, EPA transferred all comments received electronically into paper form and placed them in the official record, which also includes all comments submitted directly in writing. The official record is the record maintained at the RCRA Docket Information Center. See the **ADDRESSES** section above.

EPA responses to comments on the March 1, 1999 Advance Notice of Proposed Rulemaking (64 FR 10063) and the November 19, 1999 Storage, Treatment, Transportation, and Disposal of Mixed Waste; Proposed Rule (64 FR 63464) are in a response to comments document placed in the official record for this rulemaking.

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I. References

A. Acronyms Used in This Preamble

AEA—Atomic Energy Act of 1954, as amended
ALARA—As Low As Reasonably Achievable
ANPRM—Advance Notice of Proposed Rulemaking
ARAR—Applicable or Relevant and Appropriate Requirements
BDAT—Best Demonstrated Available Technology
CBI—Confidential Business Information
CERCLA—Comprehensive Environmental Response, Compensation, and Liability Act
DOD—Department of Defense
DOE—Department of Energy
EEI—Edison Electric Institute
EPA—Environmental Protection Agency (referred to as ''we'' throughout this document)
FFCA—Federal Facilities Compliance Act
FUSRAP—Formerly Utilized Sites Remedial Action Program
GWRL—Groundwater Risk Levels
HSWA—Hazardous and Solid Waste Amendments of 1984
HWIR—Hazardous Waste Identification Rule
ICR—Information Collection Request
LDR—Land Disposal Restrictions
LLW—Low-Level Radioactive Waste
LLMW—Low-Level Mixed Waste
LLRWDF—Low-Level Radioactive Waste Disposal Facility
MMR—Military Munitions Rule
NAAG—National Association of Attorneys General
NARM-Technologically Enhanced Naturally Occurring and/or Accelerator-produced Radioactive Material
NGA—National Governors' Association
NNPP—Naval Nuclear Propulsion Program
NRC—Nuclear Regulatory Commission
NTTAA—National Technology Transfer and Advancement Act
OMB—Office of Management and Budget
OSW—Office of Solid Waste
OSWER—Office of Solid Waste and Emergency Response
RCRA—Resource Conservation and Recovery Act
RFA—Regulatory Fairness Act
RIC—RCRA Information Center
RQ—Reportable Quantity
SARA—Superfund Amendments and Reauthorization Act
SBREFA—Small Business Regulatory Enforcement Fairness Act
SQG—Small Quantity Generator
TC—Toxicity Characteristic
TRI—Toxics Release Inventory
TSDF—Treatment, Storage and Disposal Facility
UHC—Underlying Hazardous Constituent
UMRA—Unfunded Mandates Reform Act of 1995
UMTRCA—Uranium Mill Tailings Radiation Control Act
USWAG—Utility Solid Waste Activities Group
UTS—Universal Treatment Standards

B. Definition of Terms Used in the Preamble

Agreement State means a state that has entered into an agreement with the NRC under subsection 274b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), to assume responsibility for regulating within its borders byproduct, source, or special nuclear material in quantities not sufficient to form a critical mass.

ANPRM (Advance Notice of Proposed Rulemaking) refers in this document to the advance notice published in the **Federal Register** on March 1, 1999 (64 FR 10063) on mixed waste storage.

Certified Delivery means certified mail with return receipt requested, or equivalent courier service or other means that provides the sender with a receipt confirming delivery.

Director refers to the definition in 40 CFR 270.2.

''Eligible Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM)'' is NARM that is eligible for the Transportation and Disposal Conditional Exemption. It is a NARM waste that contains RCRA hazardous waste, meets the waste acceptance criteria of, and is allowed by State NARM regulations to be disposed of at a LLRWDF licensed in accordance with 10 CFR part 61 or NRC Agreement State equivalent regulations.

Exempted waste means a waste that meets the eligibility criteria in § 266.225 and meets all of the conditions in § 266.230, or meets the eligibility criteria in § 266.310 and complies with all of the conditions in § 266.315. Such waste is conditionally exempted from the regulatory definition of hazardous waste described in 40 CFR 261.3.

Generator refers to the definition in 40 CFR 260.10.

Hazardous waste means any material which is defined to be hazardous waste in accordance with 40 CFR 261.3, ''Definition of Hazardous Waste.''

Legacy waste means waste that was generated by past activities and has been in storage beyond RCRA accumulation time periods in 40 CFR 262.34 because appropriate treatment technologies have not been developed, or treatment and disposal capacity has not been available.

License means a license issued by the Nuclear Regulatory Commission, or NRC Agreement State, to users that manage radionuclides regulated by NRC, or NRC Agreement States, under authority of the Atomic Energy Act of 1954, as amended.

Low-Level Mixed Waste (LLMW) means a waste that contains both low-level radioactive waste and RCRA hazardous waste.

Low-Level Radioactive Waste (LLW) is a radioactive waste which contains source, special nuclear, or byproduct material, and which is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section11e.(2) of the Atomic Energy Act. (See also NRC definition of ''waste'' at 10 CFR 61.2)

Mixed Waste defined in RCRA as amended by the Federal Facility Compliance Act of 1992, means a waste that contains both RCRA hazardous waste and source, special nuclear, or byproduct material subject to the Atomic Energy Act of 1954, as amended.

Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM) means radioactive materials that (1) Are naturally occurring and are not source, special nuclear, or byproduct materials (as defined by the AEA) or (2) are produced by an accelerator. NARM is regulated by the States under State law, or by DOE (as authorized by the AEA) under DOE orders.

NRC or NRC Agreement State license means a license issued by the Nuclear Regulatory Commission or an NRC Agreement State under authority granted by the AEA.

NUREG refers to Nuclear Regulatory Commission publications and documents that include formal staff reports, which cover a variety of regulatory, technical and administrative subjects; brochures, which include manuals, procedural guidance, directories and newsletters; conference proceedings and papers presented at a conference or workshop; and books, which serve a technical purpose or an industry-wide needs. Many of the NUREG documents are listed on the NRC Home Page (*http://www.nrc.gov*).

On-site is defined in the RCRA regulations at 40 CFR 260.10, *et seq.*

Tie-down conditions include NRC guidance documents and policies concerning storage and treatment of LLW which become part of the NRC or NRC Agreement State radioactive materials license by reference.

We or *us* within this preamble means the EPA.

You means a generator, treater, or other handler of low-level mixed waste or Eligible NARM.

C. Who Is Potentially Affected by This Rule?

The conditional exemption for low-level mixed waste (LLMW) storage and treatment applies to any mixed waste generator that has an NRC or NRC Agreement State license to possess radioactive material or to operate a nuclear reactor, so long as the waste is eligible and the generator can satisfy the conditions set forth in today's rule.

The transportation and disposal exemption applies to generators of LLMW and Eligible NARM so long as they meet all specified conditions. Facilities potentially affected by this action include those identified in Table 1.

TABLE 1.—FACILITIES POTENTIALLY AFFECTED

Category	Examples of facilities
Nuclear Utilities	Firms that generate electricity using nuclear fuel as the source of energy and that are licensed by the NRC.
Universities/Academic Institutions	Academic institutions at all levels that are licensed by NRC, or an NRC Agreement State, to use radionuclides for academic, biomedical, and research purposes.
Medical Facilities	Hospitals, medical laboratories, doctors' offices, or clinics that are licensed by NRC or an NRC Agreement State to use radionuclides for health care purposes.
Industrial Establishments	Private companies and institutions, including pharmaceutical companies, and research and development institutions that are licensed by NRC or an NRC Agreement State to use radionuclides.
Government Facilities	Facilities, installations and laboratories operated by State Agencies, and by some Federal Agencies, including, but not limited to, the National Institutes of Health, the National Institute of Standards and Technology, the Veterans Administration and the Department of Defense (except the Naval Nuclear Propulsion Program).
Disposal facilities	Low-level radioactive waste disposal facilities licensed under 10 CFR part 61or by an NRC Agreement State.

The preceding table is not intended to be exhaustive, but rather to provide examples of facilities likely to be affected by this rule. To determine whether you are affected by this regulatory action, you should carefully examine the applicability criteria in this preamble. If you have any questions regarding the applicability of this section to a particular entity, consult the persons listed under **FOR FURTHER INFORMATION CONTACT.**

D. What Is the Legal Authority for Today's Final Rule?

The statutory basis for this rule is in sections 1006, 2002(a), 3001–3009 and 3013 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), the Hazardous and Solid Waste Amendments of 1984 (HSWA), and the Federal Facility Compliance Act of 1992 (FFCA), 42 U.S.C. 6905, 6912(a), 6921–6929 and 6934.

II. Summary of Today's Action

In today's rule we are promulgating a conditional exemption for the storage, treatment, transportation, and disposal of low-level mixed waste (LLMW), and Eligible NARM where specified. As a

waste generator and handler who meets certain conditions specified in 40 CFR 266.230 or 266.315, (a) your LLMW could be exempt from most RCRA Subtitle C storage and treatment regulations, and (b) your LLMW and Eligible NARM could be exempt from most RCRA Subtitle C manifesting, transportation, and disposal regulations. Thus, LLMW, and Eligible NARM where specified, may be conditionally exempted from most RCRA Subtitle C requirements through much of the waste management process.

To claim a conditional exemption you must notify the regulatory agencies specified that you meet the conditions. However, if information you provide on your notification is incomplete or inaccurate, your claim for a conditional exemption is nullified subjecting your waste to RCRA Subtitle C regulation.

A. How Does This Rule Affect the Storage and Treatment of LLMW?

Our rule will allow qualified generators of LLMW to claim a conditional exemption from the regulatory RCRA definition of hazardous waste for mixed wastes stored and treated by the generator under a single NRC or NRC Agreement State license. This conditional exemption acknowledges that NRC regulation for low-level waste (LLW) provides protective regulation of storage and treatment of mixed waste in tanks and containers. This regulatory flexibility applies only to generators of low-level mixed waste who are licensed by NRC or an NRC Agreement State. Once your LLMW is removed from storage or treatment for transportation or disposal, it is subject to RCRA Subtitle C regulation unless it qualifies for the transportation and disposal exemption. Under this rule, if you fail to meet any of the conditions in § 266.230, your LLMW is no longer exempted from the regulatory definition of hazardous waste. As a hazardous waste, your LLMW is subject to RCRA Subtitle C regulation.

B. How Does This Rule Affect Transportation and Disposal of LLMW and Eligible NARM?

Today's rule will allow generators of LLMW and Eligible NARM to claim a conditional exemption from the RCRA regulatory definition of hazardous waste for the manifesting, transportation, and disposal of these wastes. (Throughout this document when we refer to the conditional exemption for manifest, transportation and disposal of LLMW, we also mean Eligible NARM.) If your wastes meet the eligibility requirements and if you meet the specified conditions for the transportation and disposal exemption, then you may manage your wastes as you would solely radioactive wastes. This conditional exemption acknowledges the protection provided by NRC and NRC Agreement States requirements for the manifest, transportation and disposal of the radioactive portion of the eligible waste.

III. Why Are We Issuing This Rule?

A. Response to Dual Regulation Concerns and Inadequate Capacity

Mixed waste is regulated under multiple authorities: RCRA (for the hazardous component), as implemented by EPA or Authorized States; and AEA (for the source, special nuclear, or by-product material component), as implemented by the NRC or NRC Agreement States (for commercially-generated mixed wastes), or the Department of Energy (DOE) (for defense-related mixed waste generated by DOE activities). NARM-contaminated hazardous waste is also regulated under multiple authorities: RCRA (for the hazardous component); and State law (for the NARM component), as implemented by a State agency designated by State law. EPA and NRC recognize that joint oversight of mixed waste has been cumbersome, in part because of the different regulatory approaches of the agencies, and has complicated safe management and disposal of mixed waste. With this rule we are responding to the concerns of mixed waste generators regarding the burden and duplication of dual regulation, as well as concerns about reducing the radiation exposures of workers managing mixed wastes. (See discussion related to decay-in-storage in section VI. A. 4. e. i.)

In addition, mixed waste generators have expressed concerns about limited LLMW treatment and disposal options which can put them in violation of RCRA. These concerns originated because RCRA section 3004(j) generally prohibits the storage of hazardous wastes that are also subject to RCRA land disposal restrictions unless the storage is ''solely for the purpose of the accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment or disposal.'' Under EPA's regulation codifying RCRA section 3004(j), we presume that the initial year of hazardous waste storage is for the sole purpose of accumulating a quantity necessary to facilitate treatment and disposal. However, if you store LLMW on-site for more than one year, you have the burden of proving that the storage is for the allowed purpose.

Based on our information collection effort in the ANPRM, published March 1, 1999 in the **Federal Register**, and information from mixed waste generators, we found that treatment technology and disposal capacity for certain LLMW are not always available. We also found that, in some cases, commercial mixed waste treatment facilities have not been willing to accept LLMW for treatment unless there are also disposal options. When disposal options do not exist, generators of LLMW store the waste beyond a year. Because of limited LLMW disposal capacity, we believe it is appropriate to provide safe and legal alternatives for the disposal of LLMW.

We assessed NRC regulations for management of LLW and compared them with EPA's regulations for hazardous waste storage, treatment, transportation, and disposal. Our review found that given the NRC's regulatory controls, human health and environmental protection from chemical risks would not be compromised if we deferred to many of the NRC low-level radioactive waste management practices. Given NRC waste management, we do not believe that the addition of RCRA Subtitle C regulation is necessary to protect human health or the environment. Through this rule, we are providing regulatory relief intended to facilitate the disposal of certain LLMW (such as legacy waste requiring long-term storage due to lack of treatment technology and disposal capacity), that has been stored on-site by NRC licensees as mixed waste subject to both RCRA permitting and NRC licensing requirements.

Ninety individuals and organizations commented on the proposal. In general, utilities, nuclear trade organizations, industry, universities, and some States supported the rule; private citizens, waste treatment and disposal facilities, environmental groups, and other States and universities opposed the rule or expressed concerns. We discuss the major comments of both supporting and opposing views by topic below.

In the preamble of the proposal we specifically sought comment on dual regulation. (See 64 FR 63469.) Of the 90 total comments, 77 from organizations or individuals addressed dual regulation, 61 of which expressed support for a conditional exemption of mixed waste. Several stated that the exemption would provide important and necessary regulatory flexibility for LLMW. Others stated that EPA has developed a sound and compelling technical record for both the storage and treatment of LLMW, as well as for off-site transportation and disposal of

LLMW and Eligible NARM in qualified low-level radioactive waste disposal facilities.

Our approach for addressing the issue of dual regulation of LLMW was opposed in whole or part by 16 commenters. Three commenters felt that EPA should establish a Memorandum of Understanding (MOU) with the Nuclear Regulatory Commission to transfer regulatory authority for mixed waste to NRC and Agreement States. However, an MOU would not allow EPA to relinquish jurisdiction over the hazardous portion of mixed waste. In addition, these commenters did not suggest how the NRC management framework might be changed to provide safer treatment and disposal of hazardous wastes. Our regulatory approach provides flexibility for mixed waste storage, treatment, transportation and disposal which addresses dual regulation concerns, and received the support of many generators who have raised the issue of dual regulation to us in the past.

B. Response to HWIR Consent Decree

The Edison Electric Institute (EEI), the Utility Solid Waste Activities Group (USWAG), and the Nuclear Energy Institute (NEI)—trade groups representing commercial nuclear power plants—were parties to settlement discussions regarding the deadline for the final Hazardous Waste Identification Rulemaking, ETC v. Browner, C.A. No. 94–2119 (TFH) (D.D.C.). On April 11, 1997, the court entered a consent decree which required EPA to propose revisions to the mixture and derived-from rules, 40 CFR 261.3(a)(2)(iv) and (c)(2)(i), and to seek comment on eleven items listed in the decree with respect to those revisions. (See EPA Consent Decree, Ref. 1.) One of the eleven items concerns an exemption from RCRA hazardous waste disposal regulations for low-level mixed waste generated by nuclear power plants where such waste is also subject to regulation by the Nuclear Regulatory Commission. (See Side-bar letter, Ref. 2.) The consent decree required that the proposal also request comment on other regulatory relief for these wastes, if EPA finds that any other relief would be appropriate. (See ANPRM for further information.) This decree requires that EPA take final action on the proposal by April 30, 2001.

Today's rule provides regulatory relief to LLMW generators and other regulatory relief as described in this document. In a separate notice, EPA is revising the mixture and derived-from rules. (See Docket #F–2001–WHWF–FFFFF.) The revision includes an exemption from the mixture and derived-from rule for low-level mixed waste that is managed in compliance with the requirements in part 266, subpart N. These two final rules satisfy EPA's obligations under the consent decree.

C. Response to Petition From USWAG and Concerns of Other Mixed Waste Generators

The Utility Solid Waste Activities Group (USWAG), a national organization of power companies, petitioned the U.S. EPA on January 13, 1992 to amend RCRA Subtitle C regulations governing storage of mixed wastes. The USWAG organization cited difficulties in complying with RCRA Subtitle C regulations because of limited treatment technology and disposal capacity for some mixed wastes. (See discussion in ANPRM for additional information.) Today's action is our response to the USWAG petition.

Policy of Lower Enforcement Priority for Mixed Waste

Recognizing the limitations of available technology and capacity, in 1991 EPA issued a policy on a lower priority for enforcement of the storage prohibition contained in 3004(j) of RCRA for certain waste streams. (See 56 FR 42730; August 29, 1991.) Section 3004(j) prohibits storage of a waste restricted from land disposal (including the hazardous component of mixed waste), except for the purposes of the accumulation of such quantities of hazardous waste necessary to facilitate proper recovery, treatment, or disposal. The lack of adequate treatment technology or disposal capacity for some mixed waste streams necessitated mixed waste storage in violation of land disposal restrictions. The policy stated that violators who were faced with the impossibility of complying with the RCRA regulations, had a RCRA storage permit, and were storing their wastes in an environmentally responsible manner would be a low enforcement priority for EPA. Because treatment technology or disposal capacity was still unavailable for some mixed wastes, we extended this policy in 1994, 1996 and again in 1998. The policy expires on October 31, 2001. (See 63 FR 59989, November 6, 1998.)

This rulemaking is intended to provide flexibility to generators of mixed waste where EPA requirements are to a large extent duplicative of performance standards required by the NRC or NRC Agreement States. With the promulgation of this rule, EPA is stating its determination that facilities that comply with certain criteria can safely store mixed waste at NRC licensed facilities. The prohibition for storage in 3004(j) will not apply to waste that both meets the eligibility criteria of, and is stored in accord with the conditions of, this rule. Thus, the federal government is providing with this rule a potential option for mixed waste generators to store mixed wastes legally. We recognize that States are not required to become authorized for this rule. States may choose to be more stringent than the federal RCRA program. However, since many States have followed EPA's lead on the enforcement policy, we anticipate that most states will choose to address the storage problem of concern to mixed waste generators by adopting this rulemaking.

IV. Precedent for Regulatory Flexibility

A. Military Munitions Rule

The flexibility of this rule is modeled on the conditional exemption developed for waste military munitions in the Military Munitions Rule published February 12, 1997 (62 FR 6622–6657). (See 40 CFR part 266, subpart M.) The Military Munitions Rule (MMR) identifies when conventional and chemical military munitions become hazardous wastes subject to RCRA Subtitle C. In the MMR, EPA developed a conditional exemption to provide regulatory flexibility to storers and transporters of non-chemical waste military munitions. EPA provided the exemption for waste military munitions because the Defense Department Explosives Safety Board (DDESB) standards apply to and are binding on the military, and there is an institutional oversight process within the military. (See 62 FR at 6636.) Under the conditional exemption, non-chemical waste military munitions that normally meet the definition of ''hazardous waste'' are exempt from the regulatory definition of hazardous wastes under RCRA Subtitle C so long as the facilities storing or transporting munitions meet all of the conditions listed in the rule. (For the complete text of the Military Munitions Rule preamble, see 62 FR 6621, February 12, 1997.)

The U.S. Court of Appeals for the D.C. Circuit upheld all aspects of the MMR in Military *Toxics Project* v. *EPA,* 146 F.3d 948 (D.C. Cir. 1998). The court agreed with EPA that ''Congress has not spoken directly to the issue of conditional exemption,'' and upheld as reasonable EPA's interpretation that 3001(a), which requires the Administrator to promulgate criteria for identifying and listing wastes that should be subject to Subtitle C requirements, allows the use of

conditional exemptions. (Id.) The court also agreed with EPA that ''where a waste might pose a hazard only under limited management scenarios, and other regulatory programs already address such scenarios, EPA is not required to classify a waste as hazardous waste subject to regulation under Subtitle C.'' (Id. at 958.) For a more complete explanation of the legal basis for establishing a conditional exemption under RCRA, see the preamble to the Military Munitions Rule at 62 FR 6636. Today's final rule recognizes the safeguards which the NRC or NRC Agreement State regulatory program for low-level radioactive wastes already provides during storage, treatment, transportation and disposal. State radiation programs address NARM wastes under separate authorities.

B. Applying the Conditional Exemption Concept to Mixed Waste

In the Military Munitions Rule, EPA conditionally exempted from RCRA Subtitle C regulation stored waste military munitions and waste military munitions transported from one military owned or operated facility to another that are subject to DDESB standards. We take a comparable approach for generators of LLMW in this rule, which provides a conditional exemption for the storage, treatment, transportation, and disposal of LLMW that is subject to NRC or NRC Agreement State regulation. The exemption is based on the NRC or the NRC Agreement State licensing process and regulatory requirements, and their adequacy in addressing risks from both radioactivity and RCRA hazardous constituents. By promulgating a conditional exemption, we can eliminate redundant or dual requirements where wastes are managed safely; the NRC-required safeguards are in place (for example, inspection, recordkeeping, reporting); and penalties or other consequences may be imposed if the governing regulatory framework is not followed. Taking these features together, EPA concludes that these wastes should not be regulated under Subtitle C, because the NRC regulatory framework ensures protection of human health and the environment.

1. Evaluation of NRC Storage and Treatment Requirements

The NRC was created as an independent agency by the Energy Reorganization Act of 1974, which abolished the Atomic Energy Commission (AEC) and moved the AEC's regulatory function to NRC. This act, along with the Atomic Energy Act of 1954, as amended, provides the foundation for regulation of the nation's commercial nuclear power industry. The NRC's scope of responsibility includes regulation of commercial nuclear power reactors; non-power research, test, and training reactors; fuel cycle facilities; medical, academic, and industrial uses of nuclear materials; and the transport, storage, and disposal of nuclear materials and waste.

NRC regulations are issued under the United States Code of Federal Regulations (CFR) Title 10, Chapter 1. Regulation of LLMW is addressed through the issuance of regulations including those found in 10 CFR parts 20, 30, 35, 40, 50, 61, 70, and 71. NRC interprets these regulations and offers guidance on how licensees should comply with them through numerous Criteria, Regulatory Guides, Generic Communications, and NRC Reports.

Licenses that are issued on the basis of NRC's regulatory system allow entities to manage nuclear materials including wastes. Conditions of these licenses are enforced by NRC's Office of Enforcement, which oversees, manages, and directs the development and implementation of policies and programs for enforcement of NRC requirements. The system in place provides a comprehensive framework for the safe management of the various forms of waste generated by the nuclear industry, including LLMW. The NRC shares with EPA a common responsibility to protect the public health and safety.

In considering a conditional exemption from RCRA Subtitle C regulation for storage and treatment of low-level mixed waste generated by an NRC or NRC Agreement State licensee, we evaluated certain key factors. First, we reviewed the licensing requirements and NRC standards for the storage and treatment of LLW to determine whether NRC regulation of stored low-level waste adequately protects against possible risks from RCRA hazardous constituents in mixed waste. Although NRC regulation and oversight are designed primarily to address risks posed by radiation, the NRC, the regulated industry, and others have argued that these standards largely duplicate RCRA requirements and also protect against risks to human health and the environment posed by hazardous waste.

Second, we compared NRC low-level waste and EPA hazardous waste storage and treatment requirements. (See Ref. 4, EPA Comparison of Storage and Treatment Requirements, for details.) We found that activities performed by a licensee to safely store, treat, or address the release of the radioactive component of mixed waste also resulted in the safe management of the hazardous waste of the LLMW matrix. This result is attributable to the nature of mixed wastes—that is, migration of hazardous constituents does not occur except in the presence of radionuclides. Our analysis was conducted independently of similar studies performed by USWAG, the Electric Power Research Institute, and the Nuclear Management and Resources Council, Inc. (who represent members of the power generation industry). (See proposal F–1999–ML2P–FFFFF, Ref. 6 and 16 for the industry studies.) These other studies concluded that the technical design and operating standards of the NRC meet or exceed RCRA standards in virtually all respects, though the other studies note differences in implementation and emphasis (for example, NRC requirements are performance based whereas EPA's requirements under RCRA are prescriptive. NRC licenses are specifically tailored to the site, whereas RCRA permits are based on national standards.)

Third, we reviewed the compliance history of licensed facilities. We investigated a variety of NRC produced violation summaries for the years 1993–1998. These reports included: Office of Enforcement Annual Report-Fiscal Year 1996; Office of Enforcement Annual Report-Fiscal Year 1997; and Escalated Enforcement Actions Issued Since March 1996 for Reactor Licensees (Last Updated August 14, 1998). For Agreement States, Integrated Materials Performance Evaluation Program NRC Reviews were analyzed for 17 States. We looked at these and other records for documentation of incidents involving the storage and on-site treatment of radioactive wastes by LLMW generators who are licensed users of radionuclides. Our review found that, with few exceptions, the sampled NRC licensed facilities had excellent low-level waste management safety records. (See proposal F–1999–ML2P–FFFFF, Ref. 3, EPA's compliance record review.) Based on our evaluation of these factors, we concluded that low-level mixed wastes stored and treated at these facilities are safely managed and not likely to pose a threat to human health and the environment.

Two environmental groups suggested that EPA should undertake research on the potential synergistic effects of radioactive and hazardous constituents in wastes with the goal of making exposure standards for protecting individuals more restrictive. We note that NRC requires licensed facilities to manage LLW (in both the design of the facility and in its standard operating

procedures) to prevent releases, explosions, fume generation, accidental ignition, and reaction of ignitable wastes that could result from improper mixing or from instability of some LLW. In addition, one of the conditions for the storage exemption is that generators must store low-level wastes in tanks or containers in compliance with chemical compatibility requirements, to prevent chemical interactions. (See § 266.230 [b][2].) Management of the waste adhering to these requirements will avoid potential synergistic effects during storage, or avoid impairment to human health or the environment. The disposal exemption requires both treatment to the levels specified in the Land Disposal Restrictions, and placement in specific types of containers prior to disposal at a Low-Level Radioactive Waste Disposal Facility. Moreover, existing NRC requirements prohibit the disposal of liquid wastes in LLRWDFs. The Agency concludes that potential synergistic effects have been addressed because these conditions must be met to qualify for and maintain a conditional exemption, and the conditions are designed to ensure no contact, or minimal contact, between the waste materials and human and environmental receptors. Finally, EPA is not aware of any such synergistic effects being documented for the waste types being exempted, and has no reason to suspect them. The current system of dual regulation does not take any such effects into account. Should EPA determine in the future that such effects exist, it could re-evaluate the protectiveness of the NRC regime. In the meantime, EPA believes the conditional exemption will be as protective as the current system.

2. Review of NRC Disposal Requirements

In considering the transportation and disposal conditional exemption, we also evaluated certain key factors. First, we compared EPA's and DOT's hazardous waste manifest and transportation requirements with NRC's and DOT's low-level radioactive waste manifest and transportation requirements. We found that the waste tracking and transportation requirements for LLW are either equal to or more restrictive than those required by EPA for treated RCRA hazardous waste. DOT concurred with our assessment that the transportation requirements for LLW are equivalent, if not more restrictive than, the transportation requirements for a RCRA hazardous waste that has been treated and has met LDR treatment standards. (See Ref. 19, Discussion with DOT on Mixed Waste Transportation on August 1999.) As a result, requiring compliance with RCRA hazardous waste manifest and transportation requirements would be redundant and, therefore, unnecessary.

Second, we compared EPA's disposal requirements with NRC's LLW disposal practices and requirements. We reviewed NRC requirements and the practices of low-level waste disposal facilities to determine if NRC provides levels of human health and environmental protection similar to RCRA Subtitle C protection for permitted disposal facilities. (See proposal F–1999–ML2P–FFFFF, Ref. 7, Technical assessment of LLRWDFs.) Our review indicates that NRC regulations for disposal facilities provide protection comparable to that provided by RCRA particularly given that we are requiring that the RCRA hazardous constituents be treated to LDR treatment standards, and that the waste be placed in certain types of containers prior to disposal. We believe that LLMW and Eligible NARM treated, placed in containers, and disposed of at these facilities are not likely to pose a threat to human health and the environment. Therefore, RCRA Subtitle C regulation for these wastes is not necessary to ensure protection of human health and the environment.

V. How Are the Final Storage and Treatment Provisions Different From the Proposal?

The final rule contains a number of language changes to respond to comments, including changes to make the wording for storage and treatment exemption more closely parallel to the wording for transportation and disposal exemption. However, the final rule maintains the conditional exemption for storage, treatment, transportation, and disposal. The changes to our proposal for storage and treatment are highlighted below, and are discussed in greater detail in Section VI of this preamble. The changes to our proposal for transportation and disposal are highlighted in Section VII, and are discussed in greater detail in Section VIII of this preamble.

A. Streamlined Language

In the final rule we have streamlined the eligibility criteria and conditions to remove overlapping and, according to some commenters, redundant language. For example, in our proposal we had said that to be eligible for this conditional exemption LLMW must be managed under an NRC or NRC Agreement State license. We also had listed a condition that you must have a valid NRC license. We have dropped this overlapping language. In another example, our proposal included a condition which stated that you must meet the eligibility criteria. However, it is obvious that if you do not meet the eligibility criteria you cannot claim the exemption. The condition was not necessary as the threshold eligibility criteria must be met first. We note that while eligibility criteria are considered threshold matters, your waste must continue to meet the eligibility criteria to remain exempt.

We moved two of the eligibility criteria we specified in our proposal. (See 64 FR 63498, § 266.225.) These criteria were related to waste storage which meets the requirements of your license for storing LLW and storage in compliance with chemical compatibility requirements. These provisions appear in the final rule in § 266.230 as conditions that you must meet and maintain.

B. Eligibility Revisions

In the final rule we have specified that LLMW eligible for the exemption must be generated and managed by you under a single NRC or NRC Agreement State license. This language replaces the proposed language ''stored on-site.'' The change was based upon comments received on this provision. (See in-depth discussion in Section VI of this preamble.)

C. Clarifications Related to Inventory and Treatment

Commenters indicated the language we used in the proposal related to the frequency of inventory and the types of acceptable treatment was not clear. In the final rule we have clarified that an annual, not quarterly, inventory is required. Regarding treatment, we have clarified that types of treatment allowable are those that can be done in a tank or container and are allowed under the terms of the NRC or NRC Agreement State license. These clarifications have been made in § 266.230 and § 266.235.

D. Recordkeeping Requirements

In our proposal, recordkeeping requirements appeared in two places. We have removed the recordkeeping requirement under the inventory condition proposed as § 266.230(f) and consolidated all recordkeeping requirements in § 266.250 of the final rule. Commenters had found the references in our proposal redundant and unclear. We have also clarified that you must keep records relating to meeting the eligibility criteria, and meeting and maintaining the conditions.

These records form the basis of your claim for the exemption.

In addition, compliance with NRC or NRC Agreement State recordkeeping provisions relating to the storage of your waste is no longer a condition in § 266.230. Instead, we are requiring you to keep these records as a RCRA requirement in § 266.250 under the authority of sections 2002 and 3007 of RCRA. This change responds to comments received, and means that you no longer automatically lose the conditional exemption for your waste for failure to maintain records, though you may be subject to enforcement to ensure compliance and may be assessed RCRA fines and penalties if your records are not complete and accurate. If you fail to meet the recordkeeping requirements, you must take prompt action to return to compliance and to correct inaccurate information in your records. You must be able to demonstrate with your records that your waste is eligible and you meet the conditions for the exemption. In addition we included in § 266.240 language from the proposal (at § 266.245) relating to terminating your conditional exemption for serious or repeated noncompliance with any requirement of subpart N. (See further recordkeeping discussion in Section VI.A.4.d.)

E. Implementation

Commenters were confused regarding how RCRA closure applied to existing storage units. We have clarified that interim status and permitted facilities that have storage units which are used only for storage of conditionally exempt low-level mixed waste do not need to go through RCRA closure, but should seek modification of their permits or revise their interim status closure plans after the date this conditional exemption goes into effect. (See detailed discussion in VI.A.4.g.)

VI. Discussion and Response to Major Comments on the Storage and Treatment Conditional Exemption

A. Storage and Treatment—General Discussion of Provisions

We are promulgating today a conditional exemption from RCRA Subtitle C requirements for storage and treatment of low-level mixed waste in qualified tanks or containers. (See 51 FR 10168, March 24, 1986 regarding waste treatment in tanks or containers.) This regulatory flexibility for storage and treatment applies to any generator of LLMW who is licensed by NRC or an NRC Agreement State to manage radioactive materials. Note, the storage and treatment conditional exemption is available only to low-level mixed wastes generated under a single NRC or NRC Agreement State license. The conditional exemption for LLMW applies only while the waste is stored and/or treated in tanks or containers by the generator, and exempts the stored or treated waste from the regulatory definition of hazardous waste found in 40 CFR 261.3. Prior to storage and/or treatment, all relevant regulations related to hazardous waste generators in 40 CFR part 262 apply. In most cases, where exempted wastes are immediately placed in storage, subpart A would apply. When waste is removed from storage or treatment and is transported to any facility with another NRC license (other than to a LLRWDF under the provisions of 40 CFR 266.305), 40 CFR 262.30 through 262.34 and part 262 subpart D will apply.

LLMW must be eligible under § 266.225, and generators must meet the conditions listed in § 266.230. The storage and treatment exemption will be valid only as long as the eligibility criteria and conditions are met.

During storage or allowable treatment of conditionally exempted LLMW, the generator will not be required to have a RCRA permit for the conditionally exempt waste or meet other RCRA Subtitle C requirements. The storage and treatment conditional exemption applies only to LLMW and does not affect other RCRA hazardous wastes a licensee may generate. A RCRA permit may be required for management of those other wastes depending on the circumstances. In such cases, facilities might decide to identify and locate conditionally exempt stored wastes separately from other stored wastes (whether storage by the generator for less than 90 days or permitted storage).

In the regulatory language, we describe which wastes are eligible for the storage and treatment conditional exemption (§ 266.225), what conditions a generator must meet to qualify for the exemption (§ 266.230), and how the exemption will be implemented (§ 266.240 through § 266.260). Under this rule, if you fail to meet the specified conditions, your LLMW is no longer exempted from regulation as a hazardous waste.

1. What Wastes Are Eligible for the Storage and Treatment Conditional Exemption? (§ 266.225)

Low-level mixed waste meeting the definition in § 266.210 is eligible for a storage and treatment conditional exemption if it is generated and managed by you under a single NRC or NRC Agreement State license. Mixed waste generated at a facility with a different license number and shipped to your facility for storage or treatment requires a RCRA permit and is ineligible for this exemption. The types of facilities that may have LLMW eligible for the storage and treatment exemption include nuclear power plants, fuel cycle facilities, pharmaceutical companies, medical and research laboratories, universities and academic institutions, hospitals, and some industrial facilities.

a. Eligibility provisions and changes from storage and treatment proposed regulatory language. The eligibility provision covers two prerequisites that must be met for the waste to be eligible for the storage and treatment conditional exemption:

1. The waste must be a LLMW;

2. The waste must be generated and managed by you under a single NRC or NRC Agreement State license.

We realize there may be instances where one NRC or NRC Agreement State license number might apply to more than one non-contiguous unit. (For example, a generator such as a university may have a storage unit that is not contiguous to the main generating campus, but has the same NRC license number.) In the event that a generator must ship to another non-contiguous storage area under the same NRC license, the rule allows for the shipment of the waste either from the point of generation to the storage location, or from one storage point to another storage or treatment point with the same NRC license number. In the event of a shipment, the hazardous waste manifesting requirements remain in effect, as the eligible waste is still a hazardous waste until such time as it is place in the accumulation storage area. Storage areas will not need a RCRA permit in the case where only LLMW is stored. However, shipment of exempted waste to these storage areas may occur as they will be considered designated facilities for the purpose of this rule, since they continue to be safely regulated under their NRC licenses. (See letter from Elizabeth Cotsworth to J.D. Givens, dated March 27, 1998, Ref. 20.) Storage may, therefore, be either at the generating site or at your accumulation storage unit with the same NRC or NRC Agreement State license number as that under which the waste was generated.

i. Waste is a LLMW (Excludes NARM). We are finalizing a conditional exemption for LLMW because of the dual regulation to which it is subject. NARM does not meet the definition in § 266.210 of low-level mixed waste. We heard from several commenters on NARM. Some assumed we had included NARM as eligible for the storage

exemption; others suggested we do so. To clarify what we intended, eligible NARM in the proposal applied only to the conditional exemption for transportation and disposal. NARM is not included as a waste eligible for the storage and treatment conditional exemption because that exemption is based upon our study of NRC or NRC Agreement State management practices for stored waste. NARM is not regulated by NRC but by individual states or other federal agencies. We did not study State licensing procedures for managing NARM. Therefore, we have not included NARM waste containing hazardous waste in the storage and treatment conditional exemption because it was beyond the scope of our research relating to safe storage and treatment of LLMW.

ii. Waste is generated and managed by you under a single NRC license. In the proposal, we stated that having an NRC license was a condition. However, we now recognize that it was redundant to require an NRC license provision as both a prerequisite for eligibility and a condition. Therefore, we have deleted the license provision as a condition, and retained it as a prerequisite for eligibility. If, at any time, a facility ceases to be subject to an NRC or NRC Agreement State license, then LLMW managed at the facility would become ineligible for the storage and treatment conditional exemption and would become subject to RCRA Subtitle C regulation. Similarly, if the waste has decayed to background levels, and ceases to be subject to LLW regulation, then the waste becomes subject to RCRA Subtitle C. (See VI.A.4.e.) The conditional exemption is predicated on our finding that NRC regulations and oversight provide the controls necessary to ensure that the hazardous portion of an exempted waste will not be mismanaged. It is the NRC license or NRC Agreement State license, issued and enforced by an independent government agency, that assures proper management during exempt storage. A majority of commenters agreed with the appropriateness of requiring an NRC license.

Many commenters specified that the storage and treatment conditional exemption should not apply to DOE wastes because DOE is not subject to oversight by an independent regulatory agency. States expressed similar concerns in comments submitted to us. In addition, based on site treatment plans resulting from the Federal Facility Compliance Act of 1992, DOE and States have reached agreement on compliance orders regarding management of mixed wastes at DOE facilities. We do not intend to affect or disrupt these compliance orders. We continue to believe that DOE's storage and treatment of low-level mixed wastes raises additional and more complex issues. Therefore, as proposed, we are not extending the storage and treatment conditional exemption to DOE.

In this rulemaking, we have relied upon our thorough studies of the safety of generator management of LLW at facilities operating under a single NRC or NRC Agreement State license. These studies indicate that management of the hazardous component of LLMW under an NRC or NRC Agreement State license is unlikely to pose a threat to human health and the environment. We have changed the eligibility criteria from LLMW generated ''on-site'' (as stated in our proposal) to ''under a single NRC or NRC Agreement State license.'' This change from a prescribed RCRA definition of location to an NRC definition is in keeping with the flexibility we have sought in management of stored mixed waste under one regulatory framework. Our study did not focus on licensees who commercially store and treat waste for other generators. We therefore allow LLMW you generate under a single NRC or NRC Agreement State license to be eligible for a storage and treatment conditional exemption.

b. Differences from proposed eligibility for storage and treatment exemption. These final eligibility criteria differ from those proposed in § 266.225 for stored low-level mixed waste. Our proposal said LLMW ''is eligible for a conditional exemption if managed subject to NRC or Agreement State regulations, and if it is: (a) Generated at your facility * * *; (b) stored on-site in a tank or container meeting the requirements of your NRC or Agreement State license for storing low-level waste; and (c) stored in compliance with chemical compatibility requirements. * * *''

We have moved the references in the proposal at § 266.225(b) ''stored in a tank or container'' and (c) ''stored in compliance with chemical compatibility requirements.'' These provisions are combined as a condition in the final rule language at § 266.230(b)(2). The condition must be met initially and maintained in order to keep the exemption. The exemption is automatically lost if the conditions are not met. (See discussion related to loss of the exemption in § 266.240.)

Similarly, the proposed eligibility criteria in § 266.225(b), ''* * * meeting the requirements of your NRC or Agreement State license for storing low-level waste,'' has been moved. In the final rule it is at § 266.230(b)(1) and refers specifically to the requirements of your license that apply to proper storage of low-level radioactive waste. Note that the requirements of your license which relate solely to recordkeeping are identified under the reporting requirements in § 266.250. This separation of safe management of the waste from the records relating to waste management was based on comments received, which argued that the automatic loss of the conditional exemption should be for improper management, and not solely for failure to maintain records.

Another change in the final rule language at § 266.225 relates to the replacement of ''on-site'' with ''under a single NRC or NRC Agreement State license.'' We received numerous comments relating to the question of limiting the conditional exemption to LLMW stored ''on-site.'' We had specifically requested comment related to use of the term ''on-site'' to describe stored wastes meeting our proposed condition and the ''appropriateness of extending a conditional exemption to facilities that own or operate consolidated storage facilities that do not meet our current definition of ''on-site.'' (See 64 FR 63472.) In our preamble, we had also sought comment on a related issue—''whether the conditional exemption should include a storage facility which serves as a consolidation point for a single entity.'' (See 64 FR 63472.)

We received a large number of comments in response to these requests. Most of them recommended that we include, within the scope of the conditional exemption, storage of LLMW at facilities that do not meet the RCRA definition of ''on-site'' in 40 CFR 260.10. Commenters gave several reasons. Several commenters in support of centralized facilities (and commercial TSDFs) believed that consolidation of waste storage would reduce risks to the public because, unlike accumulation areas, centralized facilities are designed for longer term storage. Some of the commenters indicated that applying the RCRA ''on-site'' definition to limit the exemption would result in operational and administrative inefficiencies. These inefficiencies include the need for multiple storage facilities each with its own inventory and inspection schedules and emergency plan. Some commenters indicated that organizations, such as universities and medical institutions, store LLMW at generator owned and operated facilities and under their NRC licenses are able to store LLW for decay. However, the consolidation points these organizations use may not meet the ''on-

site'' definition, nor have a single RCRA permit number. A few of the total commenters noted that consolidation areas were covered by their NRC licenses and were not considered commercial facilities. Several stated that a license under NRC may cover several non-contiguous facilities or generation points that all are owned by one institution.

We agree with these commenters that the consolidation of LLMW in a specially designed and operated consolidation facility will enhance protectiveness and is more efficient than maintaining multiple storage facilities. A number of commenters recommended that we allow LLMW to be transferred from the point of generation (even if off-site) to a centralized waste management facility. We agree as long as the mixed waste is managed under the same NRC or NRC Agreement State license number. This approach will promote the safe handling of LLW in centralized waste management facilities designed for radioactive waste management and decay-in-storage and facilitate compliance with ALARA principles, which seek to reduce exposures and which govern NRC LLW management. (For further discussion see background documents, Ref. 3, ''Review of Waste Management Practices'' and Ref. 4 ''Comparison of EPA's RCRA and NRC's Licensing Requirements.'')

We also received a small number of comments opposing an expansion of the exemption to consolidation areas or storage facilities that do not meet the ''on-site'' definition. (See 40 CFR 260.10.) Some of these commenters maintained that EPA had not explained why management of LLMW should be different from hazardous waste. Others stated that covering off-site generated wastes may cause generators to lose control of their wastes and may create opportunities for abuse. We disagree with these reasons for not expanding our rule to include off-site consolidation points under a single NRC license within the storage conditional exemption. The overall NRC mandate is for protective management of LLW. (See Energy Reorganization Act of 1974, Public Law 93–438, 42 U.S.C. 5801(a).) We explained in our proposal that the NRC management framework is imposed on the waste generator by virtue of their NRC or the NRC Agreement State license. Since it is the controls imposed by this license that provide the basis for the exemption, it makes most sense to have the scope of the exemption be the same as the scope of the license. The ''on-site'' concept in RCRA serves principally to govern the scope of the RCRA permit exemption for hazardous wastes that are accumulated by a generator for a limited time period with limited controls. That concept has no bearing on this rule since the basis for the exemption created today is the protectiveness afforded by another regulatory program.

Further, we do not believe a generator will lose control of the waste. The LLMW must be generated and consolidated in a storage area operated under the same NRC license as the waste was generated. First, as stated above, the waste must be manifested from the generation point to the storage site. In addition, control is maintained by the license and by the conditions that the waste be inventoried annually and inspected quarterly. The NRC or NRC Agreement State framework provides safe management of both the chemical and radiological hazards associated with LLMW. Such management is provided in addition to the license and ''tie-down'' conditions by adherence to NUREG–0933, ''A Prioritization of Generic Safety Issues,'' and by regulations like 10 CFR 61.56, which include many features related to the physical and chemical characteristics of the waste. This management framework provides safeguards against abuse as expressed in the concerns of these commenters. In short, the NRC, or NRC Agreement State, licensing scheme provides substantial controls over waste managed under an NRC license. The commenter here provided no basis to believe that the NRC scheme fails to control the movement of waste, and EPA is not aware of any basis.

c. Treatment and storage facilities managing LLMW from other generators. We are not extending the conditional exemption to those mixed waste facilities that manage wastes from other licensees. We requested comment on whether we should include in the conditional exemption for storage and treatment those mixed waste facilities that manage wastes from other generators. (See 64 FR 63473.) Some of the commenters addressed the issue of whether the scope of the conditional storage exemption should be expanded to include waste treatment and storage facilities that manage wastes from other generators. Many of those who did comment urged EPA to allow commercial storage and treatment facilities that manage LLMW from other generators the opportunity to claim the conditional storage exemption. These commenters cited several reasons to support their position. One reason given was the need of small businesses (for example, one-time or sporadic LLMW generators) who lack sufficient space for storage and decay to have a place to store their waste. A second reason was that the NRC and NRC Agreement State regulatory framework, which safely addresses storage, should also be sufficient for storage or treatment of wastes off-site, provided the off-site facility meets the conditions of the exemption. Commenters arguing the second position said that storage facilities would be able to accept wastes for storage that they currently cannot accept due to regulatory restrictions.

Other commenters, however, maintain that EPA should not expand eligibility for the conditional storage exemption to commercial storage facilities. These commenters believe NRC regulations are not as protective of human health as are RCRA waste management requirements; NRC provides less rigorous oversight of storage facilities as compared with nuclear power plants; NRC lacks enforcement authority over hazardous constituents; and storage facilities would have difficulty keeping track of exempt waste and separating it when necessary. One commenter indicated that commercial storage facilities already have RCRA permits so there would be little burden reduction if they were to operate under a conditional storage exemption. Other commenters stated that allowing storage facilities to operate under the storage exemption would place an additional burden on the host communities. Because commercial storage facilities are in the ''business of managing such materials for compensation,'' some commenters maintained the commercial storage facilities should have RCRA permits and not be eligible for the conditional exemption.

While there may be some small businesses that would benefit as a result of an expansion of the conditional exemption to commercial storage facilities, small businesses that generate only small quantities of waste are eligible under RCRA regulations for conditionally exempt small quantity generator (CESQG) status. (See 40 CFR 261.5.) If it is eligible for CESQG status, a small business may be conditionally exempt from RCRA regulatory requirements based on the very small volume of hazardous wastes or acutely hazardous wastes which they generate. If it is not a small quantity generator, commercial storage facilities (without an exemption) are still available for waste storage (up to one year) and treatment under current regulations.

We also disagree with some of the reasons offered by commenters opposing extending the conditional exemption to waste managed at commercial storage facilities. The focus of this regulatory effort from its

inception has been limited to a response to expressed concerns of generators regarding overlapping regulation of mixed waste still under their control (*i.e.,* at their licensed facility). We did not comprehensively evaluate commercial storage facilities storing wastes for other licensees given the focus of the rule and limitations of time. While we asked for information regarding the relevance of the rule to commercial facilities that manage wastes from other generators, we did not receive data to support opening the exemption to commercial facilities. Although we believe that the quantities of waste shipped to these facilities could be small, some question still remains as to the long-term effect of commercial storage facilities on the management of LLMW. For example, while we do not establish a time limit on the storage of conditionally exempt waste, we continue to believe that it is highly desirable to have a system under which waste is stored for short periods of time before being sent for treatment and disposal. Even without a regulatory time limit, a generator has incentives (such as capacity limitations, management costs and the rising trend in disposal costs) to move waste stored at its facility from storage to treatment and disposal. (See section VI.A.4.e.iii.) A commercial storage facility may have reduced incentives to minimize storage time, since a commercial facility is more likely to have excess capacity to account for fluctuations in waste shipments. In addition, since storage is the main business of such facilities, they are less likely to view waste storage as an ancillary operation to be kept to a minimum. We agree with those who argue that most commercial TSDFs are permitted and should remain so. In addition, by limiting the scope of the exemption to storage and treatment at facilities operating under the same NRC or NRC Agreement State license, the compliance orders which DOE has signed with States pursuant to the FFCA will not be affected. In summary, because we did not thoroughly evaluate commercial facilities, and the other issues associated with these facilities, at this time we are not expanding the storage and treatment conditional exemption to include storage facilities in the business of treating and storing other licensees' wastes.

2. What Conditions Must You Meet To Qualify for and Maintain a Storage and Treatment Exemption? (§ 266.230)

a. Initial condition to qualify—you must notify the Director of your claim. Under § 266.230(a), to qualify for the storage and treatment conditional exemption, you must notify the Director in writing by certified delivery that you are claiming a conditional exemption for a storage unit containing low-level mixed waste. Your notification must be signed by your authorized representative, as defined in 40 CFR 260.10, who certifies that the information in the notification is true, accurate, and complete. You must notify the RCRA regulatory authority of your claim either within 90 days of the effective date of this rule in your State, or within 90 days of when a storage unit is first used to store conditionally exempt LLMW.

You, as the party claiming the conditional exemption, must be able to demonstrate that your waste and storage unit meet the eligibility criteria and all the conditions. Notification is necessary because it provides the Director with a record of your claim for the exemption. Your notification is self-implementing, although we may use our inspection and information collection authorities to verify whether you are meeting the conditions. You will not receive a notice of approval from EPA or the Director.

i. Cross reference to proposed rule. The rule language is reordered, but the wording related to notification is substantively the same as in proposed § 266.230(d). We reordered the language to improve the clarity of the final rule. (See 64 FR 63472.)

ii. Comments we received on storage and treatment notification. We received a number of comments regarding storage and treatment notification. The majority asked that we require generators to notify either the EPA Regional Administrator or the Director. Several commenters mentioned a preference that state hazardous waste programs be notified. Other commenters thought the notification should also be sent to NRC. These commenters also thought that we should require additional information in the notice, such as:

- The scope of activities and type of mixed waste,
- Radiological and chemical characteristics,
- The RCRA waste codes,
- The expected length and method of storage (container or tank type),
- Where waste storage and treatment will take place,
- The type of treatment, and
- A copy of the emergency plan and the NRC license, including the license number and expiration date of the NRC license.

As a result of these comments, we have more clearly spelled out in the notification language in § 266.230(a) basic information which is readily available to a mixed waste generator and which specifically identifies that generator, waste code(s), and storage unit(s). In the final rule, the dated notification must include your name and address, RCRA identification number, NRC or NRC Agreement State license number, the waste code(s) and storage unit(s) for which you are seeking an exemption, and a statement that you meet the conditions of subpart N. We note that some of the information requested by commenters is unnecessary and could change after the initial notification. The purpose of the notification is to identify and notify, not to provide a management plan for the waste. Based on our studies, we can confidently rely on the NRC management framework for conditionally exempted LLMW. The Director will have access to information substantiating your claim in the records you are required to keep. We do not find it is necessary to impose a requirement to provide all of this information in the notification. In particular, providing a copy of the NRC license would be burdensome as it is readily available for a site inspection and is generally quite lengthy. In addition, today's conditional exemption is based on the protectiveness of the NRC regulatory scheme, not on a license-by-license review. In any event, much of this information will be available to a RCRA inspector during a site visit from records that a generator is required to maintain. Of course, after the Director receives your initial notification, information may be requested using information gathering authorities if needed for any reason.

One commenter suggested an annual status report with projected dates for treatment, shipment, and disposal. We do not agree with this suggestion because a status report adds a recurring reporting burden that is not necessary to protect human health and the environment. Since projected dates for treatment, shipment, and disposal may change a status report does not provide useful information regarding safe management. The information is also irrelevant to any of the conditions for the exemption. The fact that a RCRA inspector may follow-up at any time on the claim of exemption to verify that the conditions are met should provide sufficient opportunity to gather needed information. The notification, coupled with the management of this waste under NRC or equivalent NRC Agreement State regulations, provides information on who is managing exempt waste and assurance regarding its safe management. If a generator fails to comply with the eligibility criteria, or

any of the conditions, the generator must notify the Director of the failure under § 266.240(a).

b. Conditions to maintain the storage and treatment exemption (§ 266.230(b)).

i. Store waste in tank or container in compliance with storage requirements of your NRC or NRC Agreement State license.

In the final rule, we state that you must ''store your low-level mixed waste in tanks or containers in compliance with the requirements of your license that apply to the proper storage of low-level radioactive waste (not including those license requirements that relate solely to recordkeeping).'' This condition had been an eligibility provision in the proposed rule at § 266.225(b). In the final rule, the waste management aspects of this condition (relating to storage under your NRC or NRC Agreement State license) have been separated from the recordkeeping aspects related to storage of your LLW. We believe that adherence to NRC licensing requirements is important to the safe storage of the hazardous portion of the LLMW stream. In the proposal, we requested comment on whether this condition should include the loss of the exemption if any LLW storage requirement of the NRC license is not met; or restrict loss of the exemption to those violations which may result in an environmental impact. (See 64 FR 63472.)

Comments Received on Compliance With License Storage Requirements

We received numerous comments on this aspect of the rule. Most of these comments expressed the view that the storage and treatment conditional exemption should be lost only when NRC license noncompliance is specifically related to waste management, and only in situations that may result in adverse environmental impact. Many reasons were given for this view. Commenters expressed concerns for cycling in and out of the exemption because of minor non-compliance such as misspelled names or incorrect phone listings in the emergency plan. Commenters pointed out that NRC can cite a licensee for failure to comply with the licensee's own internal procedures, so a licensee could be in violation of an NRC license condition without any adverse health or environmental impact, or release of hazardous constituents.

Commenters compared failure to meet the requirements of the NRC license with failure to meet RCRA permit requirements. Correction of the failure is required, and the Director may impose a fine or penalty, but the permit is not automatically lost for such a failure. (However, the Director does have the ability to revoke a permit for significant non-compliance. See 40 CFR 270.41 and 270.43.) Commenters indicated that many kinds of errors can be easily corrected, and should not trigger the loss of the exemption nor subject the generator to RCRA Subtitle C regulation. Conversely, other commenters thought a generator should lose the exemption for failing to meet any NRC LLW storage requirement. These commenters said that it would provide a powerful incentive for generators to comply with the conditions.

We believe that the loss of the exemption for failure to meet any NRC LLW storage requirement, including minor requirements not directly related to safe storage, is unwarranted and not necessary to protect human health and the environment. As noted above, the consequence of failure to meet a RCRA permit requirement is not the automatic loss of the permit. Based upon comments supporting a specific condition relating to waste management, and the difficult situations which commenters have brought to our attention, we have revised the condition in § 266.230(b)(1) to read, ''* * * in compliance with the requirements of your license that apply to proper storage of low-level radioactive waste.* * * '' The final rule does not limit the loss of the exemption to events causing adverse environmental impact, but strikes a balance by specifying a loss of the exemption when noncompliance with the condition is related to waste management. We believe it would create considerable uncertainty and great difficulties for purposes of enforcement and compliance assurance, if the RCRA status of the waste turned on the judgment of whether a particular violation might cause an adverse environmental impact.

The recordkeeping requirements related to your NRC license have been moved to section § 266.250. Upon consideration of the comments, we have concluded that reporting compliance is better treated as a requirement rather than a condition. First, given the logic of the conditional exemption, it seems artificial to say that a waste which is not ''hazardous'' under the RCRA regulatory definition becomes ''hazardous'' if a report contains an inaccuracy, even if the waste is still being properly managed. In addition, we agree with the commenters that we should not create a system under which the storage and treatment exemption can be easily lost for minor or inadvertent infractions. Finally, we believe the final rule scheme retains a strong incentive for compliance with recordkeeping requirements. Again, in striking a balance based on comments we received, we provide language in § 266.240(b) that the Director may terminate an exemption, or specify additional conditions, for repeated or serious noncompliance with the requirements of subpart N. (See proposal at § 266.245(b).)

ii. Store waste in compliance with chemical compatibility requirements. You must ''store your low-level mixed waste in tanks or containers in compliance with chemical compatibility requirements of a tank or container in 40 CFR 264.177, or 264.199, or 40 CFR 265.177, or 265.199.'' The rule requires that the waste be compatibly stored in tanks or containers. This condition is found in § 266.230(b)(2) in the final rule. For clarity, this provision has been moved from § 266.225(c) in our proposed rule where it was required for eligibility. The proposed rule language stated LLMW is eligible ''if it is: * * * (c) Stored in compliance with chemical compatibility requirements of a tank or container (See § 264.177, or § 264.199 of this chapter), or (§ 265.177, or § 265.199 of this chapter).'' The language in the final rule is essentially the same as in the proposal. We received a number of comments on eligibility provisions in the proposal. However, none was directed at the proposed eligibility requirement in § 266.225(c) relating to compliance with chemical compatibility requirements. We have therefore retained this provision as a condition and emphasize the importance of meeting this condition to retain the conditional exemption for storage.

iii. Certify that personnel are trained in hazardous waste management. You must certify that facility personnel who manage stored mixed waste are trained in a manner which ensures that the conditionally exempt waste is safely managed and includes training in hazardous waste management and hazardous materials incidents response that meets the personnel training standards found in 40 CFR 265.16(a)(3).'' Personnel managing the waste must be trained in identifying and providing initial response to a release of hazardous constituents as well as in managing radioactive waste. As part of the notification process, you must certify by a written statement that personnel managing stored LLMW are appropriately trained. This condition at § 266.230(b)(3) is the same as our proposal where it appeared at § 266.230(e).

Comments on Storage and Treatment Related to Training

We received a comment that similar training was already required by NRC or an NRC Agreement State license; the commenter felt that the training condition could be deleted. Other commenters believed that proper training was critical, and that the training condition as written in the proposal was reasonable. We determined, based on our studies, that added training in chemical waste management was important to assure protection of human health and the environment. We, therefore, agree with these latter commenters. One commenter objected to the need to certify that personnel had been trained, and recommended we drop the certification. We used the word ''certify'' because we believe that training in hazardous waste management is critical. The certification ensures that the LLMW facility will verify compliance with the training requirements. It provides an assurance to commenters who expressed concerns about the ability of personnel trained in safe management of radioactive materials also to manage hazardous wastes safely, and respond to hazardous materials incidents. The certification also ensures that a record is available for review by an inspector, enabling verification that all personnel involved in managing or handling the exempt stored wastes are aware of the potential hazards of the hazardous portion of these wastes.

iv. Inventory and inspect your waste. You must ''conduct an inventory of your stored low-level mixed waste at least annually and inspect it at least quarterly for compliance with this paragraph (part 266 subpart N).'' An important part of assuring that you comply with the conditions in today's rule is the condition that you perform regular inspections of the areas in which you store exempted waste, as well as an annual inventory of the waste to detect any loss or other mismanagement. We received comments that the proposal was unclear as to what inventory frequency we intended.

Revision to Inventory Language From Proposed Storage and Treatment Exemption

In our November 1999 proposal, at § 266.230(f), we said, ''Inventory your stored low-level mixed waste at least annually; inspect it at least quarterly for compliance with the other conditions of the paragraph; update your inventory records of conditionally exempt LLMW quarterly; and maintain records for three years.* * *'' Several commenters requested that we clarify the inventory frequency; they did not know if we meant an annual or quarterly inventory. We had intended that generators conduct an inventory annually. Therefore, we have deleted the reference to ''update your inventory records of conditionally exempt LLMW quarterly.'' The annual inventory records, copies of the generator's notification of additional claims for conditional exemption of storage units, and records of all shipments for treatment or disposal since the annual inventory will be available to an inspector. These records will enable an inspector to gain access to a complete file of all conditionally exempt LLMW storage units and to verify the amount stored at any given time. Our proposal addressed records requirements in § 266.230(f) and § 266.250. We have consolidated required records maintenance in § 266.250.

v. Maintain an accurate emergency plan (§ 266.230[b][5]). You must ''maintain an accurate emergency plan and provide it to all local authorities who may have to respond to a fire, explosion, or release of hazardous waste or hazardous constituents. Your plan must describe emergency response arrangements with local authorities; describe evacuation plans; list the names, addresses, and telephone numbers of all facility personnel qualified to work with local authorities as emergency coordinators; and list emergency equipment.'' In our proposal, nearly identical language was found in § 266.230(g). However, in proposed § 266.230(g) we also provided at the end of the paragraph the following reference: ''(See 40 CFR part 265, subpart D.).'' The reference caused confusion. We had intended this reference to serve to identify those aspects of a contingency plan and emergency procedures necessary for managing hazardous wastes during an emergency. Several commenters interpreted that reference as serving as guidance in the development and maintenance of an emergency plan; others interpreted the reference as a requirement. Because we enumerate, within the rule language, the essential components of the RCRA emergency plan, we have dropped the reference. However, the regulations at 40 CFR part 265, subpart D can continue to provide guidance concerning the necessary elements of a comprehensive emergency plan.

c. Modifications to proposed storage and treatment conditions. We have modified the storage and treatment exemption conditions listed at § 266.230 in the proposed rule as described below.

First, we moved the proposed condition to have a valid NRC or Agreement State license (proposed as § 266.230[a]) from the conditions section to the eligibility section (§ 266.225). We made this change because this is best described under eligibility. Before your waste can qualify for the conditional exemption, your waste must be eligible, i.e. managed under an NRC or NRC Agreement State license. If your waste is not eligible, it cannot be conditionally exempt from RCRA Subtitle C regulation. Eligibility criteria are threshold provisions.

Second, we deleted the condition to meet the eligibility criteria (proposed as § 266.230[c]) because we determined that this was basic. A generator could not claim the exemption without first meeting (and maintaining) the eligibility criteria.

Third, we maintained the condition that you notify the regulatory authority in writing by certified delivery that you are claiming a conditional exemption for your low-level mixed waste (proposed as § 266.230(d) and finalized as § 266.230(a)). Your notification must be signed by an authorized representative of your establishment who certifies that the information in the notification is true, accurate, and complete. You must notify your regulatory authority of your claim either within 90 days of the effective date of this rule in your State, or within 90 days of when a storage unit is first used to store conditionally exempt low-level mixed waste. Your dated notification must include identifying information such as your name and address, your RCRA generator ID number, your NRC license number, and the name of your authorized representative signing the notice. In addition, your notification must indicate that you meet all the conditions for the exemption, and indicate the waste and storage unit for which you are claiming the exemption.

Fourth, both to streamline the regulatory language, and to make clear the conditions that you must meet and maintain for your waste to qualify for the conditional exemption, we combined and moved the eligibility criteria proposed in § 266.225(b) and (c) to § 266.230(b). Based on comments we clarified these conditions that must be met and maintained.

We received considerable comment on whether claimants should be required to comply with all the requirements of their NRC or NRC Agreement State license, or with just those provisions that related to the management of conditionally exempt LLW (i.e., those provisions, which if violated, could result in an

environmental impact from the exempted waste). In response, we modified the proposed condition that claimants must be in compliance with the requirements of their license for storing LLMW (proposed as (§ 266.230[b]). This modification resulted in the condition ((§ 266.230[b][1]), which requires you to store your LLMW in tanks or containers in compliance with the requirements of your license that apply to the proper storage of LLW (not including those license requirements that relate solely to recordkeeping).

The remaining conditions—proposed as § 266.230(e), (f), and (g)—are being finalized as § 266.230(b)(3), (4), and (5), respectively. Specifically, claimants still must:

- Certify that facility personnel who manage stored conditionally exempt LLMW have been trained in a manner that ensures that the conditionally exempt waste is safely managed and includes training in chemical waste management and hazardous materials incidents response that meets the personnel training standards found in 40 CFR 265.16(a)(3);
- Conduct an inventory of your stored conditionally exempt LLMW at least annually and inspect it at least quarterly for compliance with part 266 subpart N; and
- Maintain an accurate emergency plan and provide it to all local authorities who may have to respond to a fire, explosion, or release of hazardous waste or hazardous constituents. Your plan must describe emergency response arrangements with local authorities; describe evacuation plans; list the names, addresses, and telephone numbers of all facility personnel qualified to work with local authorities as emergency coordinators; and list emergency equipment.

3. Treatment (§ 266.235)

a. Treatment Clarification. In the proposed § 266.235, we allowed treatment of LLMW by generators in a tank or container covered by the provisions of their NRC or NRC Agreement State licenses, but we excluded ''thermal treatment, such as incineration.'' The proposal was intended to make the storage and treatment conditional exemption consistent with the types of treatment NRC currently allows in a tank or container. By excluding thermal treatment we inadvertently have excluded some treatment (for example, drying processes) which the NRC has allowed in tanks or containers. It was not our intent to limit treatment currently allowable in tanks and containers. We, therefore, revised the regulatory language in § 266.235. Our clarification reflects the level of flexibility originally intended. As we explain below, however, forms of treatment that are done in units other than tanks and containers are not exempt from RCRA Subtitle C requirements. Treatments such as incineration, molten salt and super critical water oxidation would not be exempt and would require a RCRA permit.

b. Comments received on treatment. We heard from a number of commenters regarding the conditional exemption for treatment of LLMW in tanks and containers. As discussed below, the majority of the commenters approved of the conditional exemption for treating LLMW at a generator's NRC licensed facility in tanks and containers, many noting that this option would provide a valuable opportunity to process waste at their facilities for safer storage and disposal. However, a number of commenters requested that we consider expanding the scope of the exemption to include thermal treatment, while a few commenters requested that we not allow generators to conduct any form of treatment without a RCRA permit.

i. EPA should reconsider allowing treatment. We heard from several commenters who specifically requested that EPA reconsider any exemption of any storage or treatment activities involving LLMW from the RCRA permitting requirements. One commenter believed that when it comes to LLW and LLMW, the NRC appears to be more concerned with radionuclides than the potential chemical hazards. Thus the commenter said EPA should consider which treatment and storage processes, as defined under RCRA, require permitting and which processes may be exempted due to small scale, low risk of personal or environmental hazard, or similar concerns.

Another commenter, citing experience as a fully licensed and permitted mixed waste TSDF, is concerned that the treatment, transportation, and disposal exemptions are premised upon a generator being able to treat its waste properly to meet LDR requirements. The commenter stated that experience has proven treatment to be a highly technical process requiring the proper equipment, the proper treatment formulae, and careful monitoring. The commenter noted that a treatment failure could result in the subsequent closing of the ''disposal facility as a RCRA Subtitle C facility, if the waste cannot be retrieved or if its hazardous constituents cannot be delisted.''

Another commenter stated the treatment exemption is redundant because generators already are allowed to treat and store RCRA wastes (including LLMW) without a RCRA permit within 90 days, and questioned whether we intended to capture the spectrum of legacy wastes. The commenter opposed our extension of the conditional exemption to legacy wastes. The commenter alleged that many wastes have already been stored for numerous years despite existing treatment and disposal capacity because of cost reasons. The commenter stated that the exemption would allow LLMW generators to further delay the treatment and disposal of legacy wastes. The commenter concluded that extended treatment and storage of LLMW is in no way protective of human health or the environment.

We disagree with the commenters' assertions that the storage and treatment conditional exemption is not protective of human health and the environment. We agree that the NRC licensing framework for storage and treatment of LLMW is geared primarily to protection against radiological hazards through treatment and containment of radionuclides. However, one of Congress' purposes in establishing the NRC is to ''advance the goals of restoring, protecting, and enhancing environmental quality, and to assure public health and safety.'' (See Energy Reorganization Act of 1974, Pub. L. 93–438, 42 U.S.C. 5801(a)).

This statutory purpose is reflected in NRC's mission statement. ''The mission of the U.S. Nuclear Regulatory Commission (NRC) is to ensure adequate protection of the public health and safety, the common defense and security, and the environment in the use of nuclear materials in the United States.'' (See *http://www.nrc.gov.*) Therefore, EPA and NRC share a common mandate to protect human health and the environment.

Moreover, we conducted studies and analyses to determine the protectiveness of the NRC's regulatory framework for managing LLW. (See 64 FR 63497; Section VII., Supporting Documents.) We determined that the various management requirements with regard to treatment, primary and secondary containment, inspections, etc., provide protection for the hazardous constituents in the mixed waste that is comparable to the protection provided by RCRA. We found that NRC has extensive experience with waste compatibility and stability. For example, NRC requires facilities to consider the chemical properties (including ignitable, reactive, and

explosive properties) of their LLW both in the design of the LLW facility, and in writing the standard operating procedures for the facility and associated waste handling systems, storage containers, and storage areas to prevent accidental mixing of incompatible wastes. The intent of the NRC licensing and EPA RCRA programs are equivalent in that both programs require the anticipation, recognition, and prevention of accidental ignition, reaction of reactive wastes, releases, explosions, and fume generation resulting from improper mixing procedures or from the inherent instability of some wastes.

Our studies also included a review of the storage and treatment compliance record of a number of licensees. Violation rates at these facilities compared favorably with RCRA facilities and demonstrate that NRC licensed facilities operate under a regulatory scheme that assures that waste is protectively managed. Based on our studies we concluded that NRC storage and treatment regulations and license requirements regarding storage and treatment are at least as stringent and protective of human health and the environment as RCRA's Subtitle C system. (See ''Comparison of the EPA's RCRA Requirements and the NRC's Licensing Requirements for the Treatment [In Tanks & Containers] and Storage of Low-Level Mixed Wastes at Nuclear Facilities,'' Final Document, April 2001, Ref. 4.) Therefore, we will allow NRC licensees to treat LLMW in tanks and containers. We note that today's rule is consistent with existing RCRA regulatory interpretation which allows treatment in tanks and containers by a generator without a permit. (See 51 FR 10168.)

With regard to the commenter who was concerned with generators' being able to treat their wastes to the applicable LDRs and the potential consequences a LLRWDF, we note that the majority of the volume reduction and chemical stabilization and encapsulation processes that these generators currently conduct at their facilities in tanks and containers are no different from the treatment processes used at RCRA permitted commercial TSDFs. While some generators may have to request a license modification to change their current processes (for example, add a stabilization step) to meet the LDRs, this adjustment would be approved under the auspices of the generator's license. In addition, an NRC or NRC Agreement State licensed LLRWDF may require testing data, and/or conduct verification testing itself, to document that wastes meet the applicable LDR treatment standards prior to the acceptance and subsequent disposal of these treatment residues. In any event, there are potentially significant enforcement consequences if the waste does not attain LDRs, providing a strong incentive for the parties involved to meet LDR levels. If a generator is uncertain of its ability to treat its waste to comply with LDRs, the generator has the option of sending the waste to a permitted TSDF for treatment, or of continuing to store the waste until permitted treatment capacity exists.

We disagree with the commenter's characterization of legacy wastes as wastes that could have been treated years ago, but were not because of cost issues. As the commenter noted, many of these wastes have been in storage for several decades; these wastes remained in storage because legacy wastes, by definition, are wastes for which treatment or disposal capacity does not exist. Although the federal government and industry have conducted significant research on innovative waste treatment and management methods, much more needs to be done before acceptable treatment processes and management methods are developed for all legacy wastes. In addition, siting of new low-level radioactive waste disposal facilities continues to be difficult.

Finally, there appears to be some confusion on the part of commenters as to the time period allowed for treatment by a generator under this exemption. Today's rule allows generators to treat their mixed waste in tanks and containers at their facilities in accordance with the terms of their NRC or NRC Agreement State license without a permit and without a time constraint, in view of the protection afforded by the NRC scheme.

ii. EPA should broaden the scope of treatment in the storage and treatment conditional exemption. We heard from a number of commenters who specifically requested that we consider widening the scope of the conditional exemption to approve thermal treatment if allowed under the generator's NRC or NRC Agreement State license. Many of these commenters were concerned that the prohibition proposed in § 266.235 on conducting any form of thermal treatment would inappropriately bar otherwise sound LDR treatment options for mixed waste containing organic constituents. Though these commenters did not raise objections to our ban on incineration, they believed that the practical effect of the thermal treatment prohibition was that treatment of any mixed waste containing organic constituents would have to be conducted off-site at RCRA permitted mixed waste commercial treatment, storage, and disposal facilities, assuming any are available. Some of these commenters noted that there are numerous thermal technologies that are not, or do not rely on incineration or ''open flame combustion,'' including evaporation, steam reforming, high temperature catalytic oxidation, super critical water oxidation, and molten salt technology. Several of these commenters stated that a blanket prohibition against thermal treatment could deter the development of new and innovative treatment processes. They argued that a complete ban on any type of thermal treatment was overly broad and unnecessary, limiting otherwise viable, cost effective, and environmentally sound treatments available to NRC licensees. These commenters further suggested that the exemption should provide for a risk-based variance mechanism from any thermal treatment prohibition because they believe such an approach would provide a strong incentive for innovative waste treatment vendors to develop new and protective treatment methods.

We also heard from several commenters who wanted any treatment option approved in an NRC or NRC Agreement State license to be permissible under the storage exemption. They suggested that we clarify treatment to reflect this. Some of these commenters noted that clarification is necessary because the text proposed in § 266.235 could be misinterpreted to limit treatment types to solidification, neutralization, or stabilization, when in fact, additional forms of treatment (other than thermal treatment) may be allowed under the NRC or NRC Agreement State license. Another commenter recommended that we remove ambiguity by specifying exactly what treatment options the generator can expect to apply. That is, the EPA should specify by code which treatment options are considered allowable treatment technologies, or prohibited treatment technologies. Two of the commenters also recommended that EPA either delete the specific examples referenced in the second sentence of proposed § 266.235 or, alternatively, make clear that they are only examples to eliminate ambiguity. Commenters also suggested that the conditional exemption should be modified to allow for treatment in other than tanks and containers, provided that it is carried out within a controlled area such as a laboratory, is performed under NRC or NRC Agreement State

regulations and approval, and that there are no uncontrolled releases of hazardous substances to the environment. These commenters believe that the NRC safeguards are an adequate alternative to EPA permit requirements for most aspects of treatment facility operations.

We agree that the scope of the conditional exemption should include any type of treatment that generators can conduct in tanks and containers at their facilities in accordance with the terms of their NRC or NRC Agreement State license. As stated, we have revised the regulation language to drop the blanket restriction on thermal treatment since we had not intended in the proposal to limit the forms of treatment that could be conducted in licensed tanks or containers.

We are not, however, extending the storage and treatment conditional exemption to all forms of treatment that might be allowed under a generator's NRC or NRC Agreement State license. We did a thorough comparison of NRC's requirements for storage and treatment in tanks and containers with RCRA Subtitle C's requirements and concluded that our regulations and guidance governing generator storage and treatment in tanks and containers and NRC's are generally equivalent. (See our background document ''Comparison of the EPA's RCRA Requirements and the NRC's Licensing Requirements for the Treatment [In Tanks and Containers] and Storage of Low-Level Mixed Wastes at Nuclear Facilities.'') We did not do a comparative study comparing what NRC would require for treatment that occurs outside of tanks and containers with RCRA subtitle C requirements. For example, we did not evaluate the requirements NRC would impose on a LLW incinerator with the requirements that EPA would impose under 40 CFR part 264 subpart O on a hazardous waste incinerator.

For these reasons, consistent with current regulations for accumulation of waste in tanks and containers, we are limiting the allowable forms of treatment under the conditional exemption for storage of LLMW to only those forms that can occur in tanks and containers. Treatment that could qualify includes, but is not limited to, those treatment types that occur within a tank or container, such as certain forms of thermal treatment, neutralization, solidification, or other forms of stabilization. The rule no longer cites these examples, since they may appear exclusive. We do not want to exclude all technologies that might rely on some degree of heat.

Finally, because this conditional exemption relies upon waste handlers monitoring their compliance with the conditions, we do not believe that a risk-based variance approach is appropriate. Specifically, we do not have the authority to require the NRC or NRC Agreement States to implement the risk-based variance approach for specific treatment technologies (such as incineration). Generators seeking authority to construct and operate a complex treatment process unit such as an incinerator can apply for a RCRA treatment permit under the current regulatory system. Therefore, a variance process would duplicate the current RCRA permitting program.

4. Implementation of the storage and treatment conditional exemption

a. Self-implementation. The storage and treatment conditional exemption is triggered by the claimant who generates and stores the waste. To be eligible for a conditional exemption for stored low-level mixed waste you must notify the Director of your claim for exemption of your storage unit containing low-level mixed waste and of your compliance with all the conditions in § 266.230. You do not need to wait for approval from the State or Region with jurisdiction over the RCRA mixed waste program. However, you must be able to demonstrate that your claim is accurate, that your waste is eligible, and that you meet the conditions and other requirements specified in this rule. The Director may use inspection and information collection authorities to verify whether your waste met the eligibility provisions, you are meeting the conditions, and you are complying with all of the requirements.

RCRA section 3008(a) gives the Director the authority to take enforcement actions when you fail to meet any of the provisions of the conditional exemption. The appropriate regulatory authority can take a direct enforcement action against you when you fail to meet a specific RCRA requirement for your waste under this conditional exemption such as the notification or recordkeeping requirement. When you lose your exemption for your waste due to failure to meet a condition of the exemption, your waste is no longer exempted and it becomes a RCRA hazardous waste. The appropriate regulatory authority can take enforcement action against you for managing a hazardous waste without complying with RCRA hazardous waste requirements. As is the case under current RCRA regulations, concerned citizens also can bring to the regulator's attention any circumstance that might aid the authorities in monitoring and enforcement efforts. A concerned citizen also may file a suit under RCRA section 7002 against a generator for failure to meet any of the provisions of the conditional exemption. Lastly, the Director can take actions using authority under section 7003 and section 3013 of RCRA, 42 U.S.C. 6973, when it is determined that there may be an imminent and substantial endangerment to human health or the environment.

Comments Regarding Self-Implementation

We received few comments on self-implementation. One commenter who supported our approach indicated it was a practical way to implement the exemption and consistent with other EPA exemption programs, such as the Military Munitions Rule. We agree. Another commenter objected to self-implementing rules as not protective, and suggested we clearly specify enforcement and penalty provisions. Our studies conclude that regulation by NRC or NRC Agreement States of low-level radioactive waste protects human health and the environment during storage and treatment. In addition, our approach requires reporting of any failure to comply with the conditions of the exemption and the automatic loss of the exemption. We note this is similar to the current system under RCRA in which we rely upon reporting requirements and inspections for oversight.

The Director continues to have authority to inspect or collect information to verify independently the safe management of stored exempt waste. If a licensee reclaims a lost exemption, any violation must be corrected prior to the reclaim of the exemption, and an explanation of steps taken to prevent recurrence must be described in the reclaim notification. The Director can impose additional requirements or conditions on a licensee reclaiming an exemption, if appropriate. If violations of conditions or requirements demonstrate repeated and serious failure to comply, the Director may revoke a claim or reclaim of the conditional exemption. We expect that revocation would be an unusual event.

b. Loss of the storage and treatment conditional exemption (§ 266.240). If you previously claimed a storage and treatment conditional exemption from hazardous waste regulations and then fail to meet a condition listed at § 266.230, we continued to require at § 266.240 that you report the specific condition to the Director, and the NRC or NRC Agreement State in writing by certified delivery within 30 days of

learning of the failure. Your report must be signed by your authorized representative certifying that the information is true, accurate, and complete. This report must include the condition(s) you failed to meet, a description of the LLMW and storage location at the facility; and the date(s) on which you failed to meet the condition(s). If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify the Director orally (within 24 hours), and follow up with written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers, or detection of radionuclides or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, you must follow the provisions of your emergency plan. Note that failure to meet recordkeeping and other requirements may subject you to an enforcement action requiring compliance, fines and penalties, or both.

We also clarified in § 266.240(b) that the Director may terminate your conditional exemption or add conditions to your exemption for serious or repeated noncompliance with any requirement(s) of subpart N. This language had appeared under § 266.245(b) in the proposal.

Under § 266.240, your waste automatically loses the storage and treatment exemption when you fail to meet any of the conditions in § 266.230. If your stored waste no longer meets one or more of the exemption conditions, that waste will be fully regulated under RCRA Subtitle C as a hazardous waste. The conditions set forth in § 266.230 are important, in conjunction with your NRC license, to ensure that LLMW is properly managed to avoid potential adverse impact on human health or the environment. In addition, the Director may terminate your ability to claim a conditional exemption for your waste and storage unit, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirement(s) of subpart N. The potential loss of the exemption resulting from failure to meet a condition will provide a strong incentive to properly manage the waste.

Response to Comments on Loss of the Storage and Treatment Conditional Exemption

We heard from a number of commenters in response to our specific request on whether the conditional storage and treatment exemption should be lost when any of the LLW storage requirements of the NRC or NRC Agreement State license are not met, or only when violations have occurred which may result in an adverse health or environmental impact. Several of these commenters supported losing the storage and treatment exemption when any of the LLMW storage requirements of the NRC or NRC Agreement State license are violated. These commenters believed that such a provision was a strong incentive for ensuring that the waste was managed properly. One of these commenters also requested that we retain a broad list of exemption violations because a limited list effectively suggests regulatory compliance is unimportant. A different commenter urged us to define the exemption conditions as specifically as possible to improve enforceability.

The majority of commenters, however, opposed our proposal that the generator would lose the storage and treatment exemption when any of the conditions of the exemption were violated. These commenters asked that we increase our specificity and limit the loss of exemption to violations resulting in actual endangerment of human health or the environment. Many of these commenters were concerned that the storage and treatment conditional exemption could be lost due to relatively minor administrative violations. In addition, although one of these commenters agreed that generator requirements are necessary to demonstrate that the waste has been properly managed, others believed that the failure to comply with recordkeeping requirements does not represent an imminent threat to public health and safety.

We also heard from a number of commenters who believed that we should build upon this concept of not automatically terminating a storage and treatment exemption for failure to comply with all of the provisions of the NRC or NRC Agreement State license to preclude also the automatic termination of an exemption for failure to meet any of the conditions listed in § 266.230(a)–(g). These commenters believed that we should not revoke an exemption because there was a violation of a condition only. One of these commenters cited our own research, which indicated that NRC inspections would ensure protection of human health and the environment during the storage period.

These commenters raised a number of valid points. Specifically, we agree that generators should not lose their exemption because of violations of their NRC or NRC Agreement State licenses that do not bear directly on whether the waste is being managed protectively on a day-to-day basis. Also, we have defined the exemption conditions specifically to improve enforceability. We note that NRC or NRC Agreement States can also enforce if LLW is improperly stored.

We did not intend to create a system that would render waste ''hazardous'' even though it is being managed in conformance with all the substantive conditions that EPA found to be protective. Although the potential for immediate return to RCRA regulation is consistent with the Military Munitions Rule, and may be necessary in some instances, we believe that recordkeeping violations (such as maintaining paperwork on training certifications) that you could promptly remedy, should not result in automatically subjecting you to all applicable RCRA permitting requirements. We have modified the conditions of the exemption so that you do not lose the storage and treatment conditional exemption automatically for a violation of a recordkeeping requirement associated either with your NRC or NRC Agreement State license, or today's rule. However, recordkeeping is important. Violations will subject you to enforcement, and repeated and serious violation of recordkeeping or other requirements could result in revocation of your claim or reclaim of a storage and treatment conditional exemption.

Finally, many commenters also suggested a 30-day time period (or other period of time as agreed to by the agency) to reestablish compliance before a generator risks losing the exemption. The commenters noted that failure to meet exemption conditions subjects the waste generator to enforcement actions from the regulatory agency having jurisdiction. Many of these commenters stated that the NRC or NRC Agreement State regulations or license conditions in effect during this time period should be sufficient to ensure protection of human health and the environment. Two of these commenters said this 30-day time period (or another time period agreed to by EPA) and the opportunity to reestablish regulatory compliance should be allowed even in situations where noncompliance results in endangering human health or the environment. We disagree; however, facilities have other options for

reclaiming the storage and treatment conditional exemption as soon as practicable.

As we discussed above, we modified the list of conditions so that only those provisions that we believe pertain directly to safe management of the waste are included. As a result of these changes, the storage and treatment conditional exemption will not be lost automatically for failure to meet a recordkeeping requirement (unless the Director determines that it indicates a serious or recurring problem or decides to revoke the reclaimed exemption under § 266.245[b]). We have concluded the conditions are, however, the minimum necessary to ensure that LLMW will be properly managed. We believe that the threat of losing the exemption for failure to meet any one of the conditions listed at § 266.230 will provide a strong incentive to properly manage the waste. We note that if you lose the storage and treatment exemption, the affected waste would return to the RCRA system as hazardous waste, and you would have 90 days (or up to 270 days if you are a small quantity generator) to accumulate the waste before it must be either shipped off-site for treatment and disposal or stored in a RCRA permitted storage unit. You could also reclaim your storage and treatment exemption, as long as you again meet the conditions in § 266.230 and submit the required reclaim notification.

c. If you lose your storage and treatment exemption can it be reclaimed? (§ 266.245). This conditional exemption final rule creates a process for the claim of a storage and treatment exemption, for the loss of the exemption in § 266.240, and for reclaim of the exemption in § 266.245. The storage and treatment exemption is automatically lost at the time of noncompliance with a condition. The Director does not need to take action to revoke the exemption. However, you may reclaim a lost conditional exemption if you again meet the conditions in § 266.230. You must send notification of the loss of the storage and treatment exemption due to a failure to meet a condition before you can reclaim the exemption. To reclaim, you must send the Director a notice by certified delivery that you are reclaiming the exemption. Your notice must be signed by your authorized representative certifying that the information contained in your reclaim notice is true, accurate, and complete. In your notice you must do the following:

- Explain the circumstances of the failure;
- Certify that you have corrected each failure that caused you to lose the exemption and that the waste again meets all conditions as of the date you specify;
- Describe plans you have implemented listing specific steps you have taken to ensure that the conditions are met in the future; and
- Include any other information you want the Director to consider when reviewing your notice reclaiming the exemption.

The storage and treatment exemption is automatically restored if you reclaim the exemption and meet these conditions. However, the Director may terminate a reclaimed conditional exemption if he finds that your claim is inappropriate based on factors including, but not limited to, the following: you have failed to correct the problem; you explained the circumstances of the failure unsatisfactorily; or you failed to implement a plan with steps to prevent another failure to meet the conditions of § 266.230. In reviewing a reclaimed conditional exemption under this section, the Director may add conditions to the exemption to ensure waste management during storage and treatment of the LLMW will protect human health and the environment. The language of the final rule has been reworded slightly for clarity, but is very similar to the proposal.

Comments Received on Reclaiming a Storage and Treatment Exemption

Many of the commenters who addressed the issue of reclaiming a storage and treatment exemption suggested that we provide a 30-day period during which a failure to meet a condition could be corrected without loss of the exemption. A small number of commenters suggested we impose a 90-day waiting period before a lost exemption could be reclaimed. One reason given for this waiting period was to allow regulators time to review documentation and conduct inspections before reinstating the exemption. A few commenters stated that the exemption should be maintained unless the violations endanger public health and safety. Another commenter stated the reclaimed exemption should apply both automatically and retroactively from the date of the loss. Yet another commenter stated that a licensee who loses a conditional exemption should not be allowed to reclaim it, and that the rule should contain heavy penalties for failure to meet one or more of the conditions.

Based on our studies of NRC storage requirements coupled with the conditions we have specified, we find that LLMW will be safely managed as LLW. We believe that because the reinstatement is available, it is appropriate that a licensee who fails to meet a condition is required not only to correct the failure, but also to implement procedures that would prevent such a failure from recurring. A large quantity generator of hazardous waste generally has 90 days to ship waste to a treatment or disposal facility before a permit for storage is required. This time period should provide sufficient time to correct most violations of the conditions. We have also indicated that the Director may revoke the reclaimed exemption if he finds the reclaim to be inappropriate. In addition, the Director may add conditions which must be met for a reclaimed exemption if deemed necessary to protect human health and the environment. Thus, we believe that the approach we have developed here, which allows EPA to devote its attention to facilities that raise particular concerns (for example, through inspections following the receipt of a reclaim notification), is protective, and more appropriate, than a scheme that would impose a 90-day waiting period on all facilities reclaiming the exemption. Such a scheme would make it very difficult for the generator to obtain reinstatement before becoming subject to the requirement to obtain a RCRA permit—a result that is unnecessary and undesirable since the NRC scheme is protective without a RCRA permit, and since EPA does not anticipate that it would typically choose to expend the resources to inspect and review reclaim requests during the proposed 90-day period. After the failure has been discovered by the generator or an inspector, but before a reclaimed exemption is in place, the generator may be subject to an enforcement action requiring compliance, or monetary sanctions, or both for violations that occur as a result of the loss of the exemption.

We also disagree with the commenter who stated that a licensee who loses a conditional exemption should not be allowed to reclaim it. Safeguards provided by NRC or NRC Agreement State oversight, coupled with the reclaim process we have outlined will provide both appropriate enforcement and a mechanism to correct any failure of the conditions. We believe these safeguards will deter noncompliance and will ensure that any violations are quickly corrected.

d. Recordkeeping requirements for the storage and treatment exemption (§ 266.250).

An important part of assuring that a generator is complying with the

conditions in today's rule is mandating the generator perform quarterly inspections of the units and drums or containers storing exempted waste, as well as conduct an inventory of the waste to prevent loss or other mismanagement. You must keep records of these activities to assure the Director of consistent compliance with exemption conditions. The annual inventory records, coupled with records of wastes placed in storage and records of shipments for treatment or disposal, will enable an inspector or other regulator to view a complete file of all conditionally exempt LLMW stored.

In our proposal, we used language similar to § 266.230 in § 266.250. Our intent was to ensure the availability of a complete record for inspectors to account for all stored conditionally exempt LLMW. Because this language appeared in two places in the proposal—§§ 266.230(f) and 266.250—it caused confusion. In the final rule we have eliminated the redundancy and combined all requirements relating to recordkeeping in § 266.250. Generators are responsible for demonstrating that the conditions have been and are being met, and must retain the necessary records to substantiate that claim. Violations of recordkeeping or other requirements could subject you to penalties and enforcement actions and, if violations are repeated and serious, could result in the revocation of your storage and treatment conditional exemption claim.

Comments Received on Recordkeeping for the Storage and Treatment Exemption

A few commenters addressed the types of records we are requiring. One commenter recommended we delete this section because NRC and Agreement States already have requirements for inventory and records management, objected that the frequency may conflict with keeping occupational exposures low, and requested an explanation for three-year record retention if not required by NRC. In response, we are retaining § 266.250 because these records relate to conditionally exempt waste which can only be identified through these records. We have clarified that the frequency of inventory is annual, thus minimizing the potential for occupational exposure. The rule requires record retention for three years after disposal of the waste because this is the general standard for RCRA record retention. In the absence of the conditional exemption (for example, if you lose the exemption), the waste would have to be managed under RCRA Subtitle C and records relating to the waste need to be available. Note that in some instances, NRC may require record retention for longer periods, in which case the records must be retained for the time specified by NRC requirements under 10 CFR part 20 (or NRC Agreement State requirements). NRC requirements always apply.

e. Return to RCRA of LLMW no longer eligible for the storage and treatment exemption (§ 266.255). For LLMW containing short-lived radionuclides, the storage and treatment conditional exemption will be in effect only until the radionuclide in the mixed waste has decayed to a point that it is no longer subject to NRC license requirements. After the decay-in-storage process is completed, the waste becomes subject to RCRA Subtitle C requirements. Under § 266.255 of the final rule, your waste is no longer eligible for the conditional exemption when one of two things occurs: (a) When ''your LLMW has met the requirements of your NRC or NRC Agreement State license for decay-in-storage and can be disposed of as non-radioactive waste * * * '' or (b) when ''your conditionally exempt LLMW, which has been generated and stored under a single NRC or NRC Agreement State license, is removed from storage. * * * However, your waste may be eligible for the transportation and disposal conditional exemption at § 266.305.'' In the first instance, our intent with this language is to clarify the applicability of the conditional exemption during a decay-in-storage time period and identify when RCRA Subtitle C jurisdiction resumes. In the second instance, we seek to make clear that all RCRA regulatory requirements apply during transport to a treatment or disposal facility, unless the waste qualifies for the transportation and disposal exemption at § 266.305.

i. How does the storage and treatment exemption facilitate decay-in-storage? NRC generally allows research, medical, and other facilities to store low-level wastes containing radionuclides with half-lives of less than 65 days (or more under an amended license) until 10 half-lives have elapsed, and the radiation emitted from the unshielded surface of the waste (as measured with an appropriate monitoring equipment) is indistinguishable from background levels. This process is known as decay-in-storage. Our final rule facilitates decay-in-storage by allowing LLMW with short-lived radionuclides to remain in storage until it is indistinguishable from background levels of radioactivity. The time allowed for LLW decay-in-storage is based on the radionuclides (and their half-lives) specified in a low-level waste generator's NRC license. Such management of LLW reduces worker exposures to radionuclides since workers are not exposed to wastes in containers during preparation or shipment to treatment and disposal facilities. Once the specified radionuclide decay has occurred, the waste may be disposed of as non-radioactive waste after you ensure that all radioactive material labels are rendered unrecognizable. (See 10 CFR 35.92 and 10 CFR 20.2001.) On that date, your waste is subject to hazardous waste regulation under the relevant sections of 40 CFR parts 260–271, and the time period for accumulation of a hazardous waste as specified in 40 CFR 262.34 begins.

ii. Change from proposed language. This language is essentially unchanged from the proposed storage and treatment exemption with the exception of the reference to ''under a single NRC or NRC Agreement State license,'' where the proposal stated ''when your waste is transported off-site.'' The change was incorporated here to be consistent with the eligibility requirements in § 266.225 of the final rule. We discuss the reason for this change in this preamble under section VI.A.1.

iii. Comments received on storage time limits and decay-in-storage. The comments we received on time limits for storage and decay-in-storage focused upon addressing the three areas on which we requested comment in the preamble. They are discussed below.

Determining RCRA Reentry for Radioactive Decayed Waste

In our proposal, we stated that ''We would appreciate comments regarding the standard to use for determining when the decayed waste would reenter RCRA Subtitle C management.'' (See 64 FR 63471.)

In both the proposed and final rule at § 266.255(a), the standard for determining RCRA reentry is when your LLMW has met the requirements of your NRC or NRC Agreement State license for decay-in-storage and can be disposed of as non-radioactive waste. At that point, management of any radionuclide in the waste is no longer required by the NRC or NRC Agreement State license. We picked this time frame because it is at this point that dual regulation ceases. It is also familiar to NRC licensees. Implementation will be clear, and will not conflict with NRC regulations.

A number of commenters wrote to us on this question. All but two supported our proposal, which indicated our reliance on NRC management during decay-in-storage, and transfer to EPA's RCRA Subtitle C oversight when decay is complete for the radionuclides

allowable under the NRC or NRC Agreement State license provisions. The two commenters who did not support the time frame we proposed were opposed to any conditional exemption of LLMW from RCRA Subtitle C management. These commenters believe that having waste exit the RCRA cradle-to-grave management system is contrary to the fundamentals of RCRA.

The other commenters agreed the transfer should occur on the date when NRC considers the decay complete—when the radionuclide with the longest half-life in a container has decayed as specified in the license (generally ten half-lives), and when the radiation emitted from the unshielded surface of the waste is not above background levels when measured by appropriate monitoring equipment. One commenter suggested that RCRA regulations should apply when the licensee removes the radiation label from the container—when the radiation emitted is indistinguishable from background levels—since RCRA reentry on this date would ensure continuous regulatory oversight.

We appreciate the support of the commenters who agree with our use of the NRC standard for decay-in-storage. Once the waste can be disposed of as non-radioactive waste, the waste is subject to hazardous waste regulation, and time periods for accumulation apply. We do not agree with the commenters who broadly oppose any conditional exemption because, as stated earlier, we have found that NRC or NRC Agreement State management of this waste during storage, coupled with the conditions we have specified in § 266.230, will ensure safe storage. In the final rule, we have retained the language in the proposal. We also believe that the lower cost of disposing of hazardous waste rather than LLMW, coupled with RCRA Subtitle C generator time limits (90–270 days depending on applicable regulations) will ensure timely waste management.

Appropriateness of Time Limit for Storage and Treatment Exemption

In our proposal, we made the following statement,

> We are considering whether a general storage exemption time limit should be imposed. A time limit may affect both facilities with untreatable legacy wastes and future treatment and disposal capacity. We invite comment on whether a time limit may be appropriate, and, if so, on what basis that time limit might be established. (See 64 FR 63471.)

The time limit for decay-in-storage is established by the terms of the NRC license. Under a decay-in-storage scenario, LLMW is no longer subject to NRC regulation when it has met the requirements of your license for decay-in-storage and can be disposed of as non-radioactive waste. On that date your waste is subject to hazardous waste regulation under the relevant sections of 40 CFR parts 260–271, and the time period for accumulation of a hazardous waste as specified in 40 CFR 262.34 begins. If the decayed waste still exhibits a RCRA hazardous waste characteristic or is a listed hazardous waste, then it must be shipped promptly off-site for treatment, if needed, to meet LDR treatment standards, and disposed of at a RCRA compliant facility. Thus, the RCRA accumulation time for a formerly mixed—now solely hazardous—waste begins when the radionuclide with the longest half-life in a container has decayed as specified in the license (generally ten half-lives), and the radiation emitted from the unshielded surface of the waste is not above background levels as measured by appropriate monitoring equipment as specified by NRC.

Some radionuclides take longer than 10 half-lives to decay to levels that are indistinguishable from background. If we limit the time for decay to ten half-lives only, then some portion of LLMW that is being stored may still emit radiation levels above background. To minimize radiation exposures, we have used ''and'' in § 266.255 to ensure that the LLMW does not emit radiation that is above background levels as measured by appropriate monitoring equipment. In the final rule language, we defer to the NRC practice for determining when the waste can be managed as non-radioactive and radioactive labels can be removed.

For those mixed wastes which are not undergoing decay-in-storage, the majority of commenters, including one State, agreed that the length of time that a LLMW could be stored under the conditional exemption should be that which is allowed for LLW under a facility's NRC or NRC Agreement State license, because of the significant management safeguards in place while the mixed waste is subject to NRC or NRC Agreement State regulations. Some commenters indicated that the cost of long-term storage and the rising trend in disposal costs would provide an incentive for generators to dispose of the waste in a timely manner to limit their overall costs for waste management. One commenter stated the following,

> ''Limiting the conditional exemption by an artificial clock will not improve on the safe and responsible management of LLMW under the NRC's jurisdiction. Instead it will * * * divert limited resources. * * * ''

A few commenters, including several States, provided suggestions for time limits we should impose for storage. They suggest lengths of time from one year, to two years, to three years, to an unspecified limit based upon the availability of treatment and disposal capacity, particularly for legacy wastes. Another commenter suggested a 5-year limit be imposed. An organization of state regulators commented that the quantity of waste accumulated is affected by the time period allowed and suggested that EPA set a limit either of time (3 years) or of capacity (volume). Other commenters suggested we set a capacity limitation of up to 10 kg because the disposal of small quantities of LLMW can be inefficient and extremely costly. Another commenter suggested that time limits be imposed through site-specific variances, in combination with capacity limitations and conditions for storage.

We also heard from two commenters, including one State, who believed a time limit was inappropriate because they opposed any exemption from RCRA Subtitle C regulations, and because NRC does not limit the volume of waste that can be stored on-site. A third commenter noted that RCRA prohibits storage of mixed wastes beyond specified periods, and no such storage prohibition exists in AEA-based regulations.

We agree with the large number of commenters who stated that we should adopt the NRC approach and not establish a limit on the length of time during which conditionally exempt LLMW may be stored. Their underlying argument was that the waste is safely stored if provisions of storage in the generator's NRC or NRC Agreement State license are being met. Our study of radioactive material storage indicated that NRC requires a licensee to maintain sufficient storage space to safely manage these wastes. For example, a generator must maintain sufficient aisle space for inspections and emergency response actions, and safeguards to limit exposures to ALARA. While NRC does not specifically limit the volume of waste stored, it does place a maximum on the radioactivity a licensee can manage. This provision of an NRC license serves to limit storage volumes. In addition, NRC discourages the accumulation of wastes that can be treated and/or disposed of. (See Generic Letter 81–38, ''Storage of Low-Level Radioactive Wastes at Power Reactor Sites.'') This fact, combined with cost considerations—that long term storage has associated management costs, and that the rising trend in disposal costs serves to encourage immediate rather

than delayed disposal—provides an incentive to generators to treat and dispose of wastes and avoid accumulation.

Another factor encouraging immediate disposal is the present uncertainty regarding access to existing LLRWDFs for many generators, given the present LLW Compact system. Our analyses of the protectiveness of the NRC regulatory framework for managing LLW indicated that LLMW would be stored in a manner that provided protection to human health and the environment equivalent to that based on EPA's RCRA Subtitle C system. To limit the storage time for wastes, including legacy wastes, further than time periods allowed by NRC or NRC Agreement States would subject generators to extraneous regulation without significantly reducing the likelihood of human health or environmental threats arising from stored LLMW. Commenters did not provide data which would assist us in establishing a non-arbitrary basis for choosing a time period for storage.

Potential Gap in Regulatory Coverage for Decayed Waste

In our proposal, we invited comment on whether waste being stored for decay under 10 CFR 20.2001(a)(2) and 10 CFR part 35 can be completely decayed while at the same time reenter RCRA Subtitle C without a gap in time during which the waste is not regulated as either hazardous or radioactive. We also requested that you do the following.

''* * * [I]ndicate in your comment what mixed wastes you generate that have radionuclides with activity levels which would not qualify for the conditional exemption we are proposing if it were based on whichever occurred first—ten half-lives of decay or not registering above background levels. Also indicate how this limitation would affect your management of the waste.'' (See 64 FR 63471.)

We note that an NRC licensee is not required to monitor the waste immediately after decay of 10 half-lives to determine if the radiation emitted is indistinguishable from background levels. Prior to monitoring, there may be an interval when the waste is hazardous only. However, it is only when the waste is monitored and the radiation emitted declared indistinguishable from background levels that the radioactive waste labels on each container must be removed. Our final rule indicates in § 266.255 that the waste would then be subject to RCRA Subtitle C jurisdiction for the hazardous wastes it contains.

A number of commenters responded to our request regarding a gap in coverage for decay-in-storage wastes. Some of them asserted there would be no gap if we relied on NRC provisions which require the generator to obliterate the container's radiation label once the container has been surveyed by appropriate monitoring equipment, and the radiation level is determined to be indistinguishable from background levels. One commenter noted that NRC requires documenting the release of the material from NRC regulation. Such documentation provides a date on which appropriate RCRA Subtitle C accumulation time periods would start.

Three commenters stated that if we did not conditionally exempt LLMW from the regulatory definition of hazardous waste, then no gap in coverage would occur. One of these commenters did note that for decay-in-storage waste, if we finalized a conditional exemption, ''RCRA control would be gained upon destruction of the radioactive label affixed on the waste * * *''

We appreciate hearing the suggestions of these commenters on eliminating a potential gap in regulation, and we agree that the date of the obliteration of the radioactive label (as the NRC requires) provides a documented and certain date for applying RCRA accumulation time periods.

iv. Effect on biennial reporting. Under 40 CFR 262.41, a generator who ships any hazardous waste off-site to a treatment, storage or disposal facility; or who treats, stores or disposes of hazardous waste on-site must submit a biennial report covering those wastes. Newly generated low-level mixed wastes that are exempted under this rule may be subject biennial reporting in accordance with 262.41 since, as generated, they are hazardous. Wastes only become nonhazardous when they meet the eligibility criteria and conditions of subpart N. Wastes that are exempted under today's storage and treatment exemption may, as with other RCRA wastes, again be subject to the reporting requirements of 262.41 if the waste is further managed outside the scope of the exemption. The Hazardous Waste Report Forms and Instructions booklet (EPA Form 8700–13 A/B) for the required reporting year explains who must file the hazardous waste report, and can be found at http://www.epa.gov/epaoswer/hazwaste/data/brs01/forms.html

Finally, it should be noted that today's final rule does not change the ability of states to impose reporting requirements above and beyond the Federal requirements, e.g., annual reporting or additional information about the generated, treated, recycled, or disposed hazardous waste.

f. Enforcement and enforcement policy. You, as the RCRA generator and NRC licensee, must be able to document that your claim for an exemption is accurate, that your waste is eligible, and that you meet the conditions and requirements specified in this rule. The Director may use inspection and information collection authorities to verify whether you have met and continue to meet the eligibility criteria, the requirements, and the conditions.

Facilities that fail to meet any of the conditions in § 266.230 for exemption will be subject to RCRA Subtitle C from the time that failure occurs. Utilities or other LLMW generators that claim the storage and treatment conditional exemption, but fail to store and/or treat the LLMW in compliance with the conditions of the exemption, no longer will be exempt from the applicable provisions of RCRA. Failure to meet requirements (in §§ 266.225 and 266.250) may result in an enforcement action to ensure compliance, penalties and fines. Moreover, imminent and substantial endangerment provisions under section 7003 of RCRA will continue to apply to conditionally exempt mixed waste as a safeguard since the waste remains a statutory solid and hazardous waste, so EPA can act in the unlikely event of circumstances which may pose a health or environmental threat. All RCRA statutory authorities that hinge on a waste's being a statutory solid and hazardous waste still apply (for example, sections 3007, 3013). We anticipate that most generators will be able to correct a failure to meet the conditions within a 90-day period and reclaim the exemption, thus avoiding any practical effect of losing the storage and treatment exemption and becoming subject to RCRA subtitle C regulation.

The storage exemption is based upon the NRC's regulatory framework governing the low-level radioactive waste component of LLMW. The NRC has a ''General Statement of Policy and Procedure for NRC Enforcement Actions'' (NUREG–1600) which states the NRC's policy regarding enforcement. This policy specifies significant consequences for violating NRC or license requirements and takes into consideration the specific circumstances of a particular case. For example, if a nuclear power plant violates an NRC license, or tie-down conditions of a license (see definition at the beginning of this preamble), the nuclear power plant (and the responsible person) may be subject to substantial civil and criminal penalties. Based on NRC regulations and this policy, licensed

facilities have a strong incentive to manage stored waste properly.

EPA Enforcement Policy Expiration

We intend to allow the mixed waste enforcement policy to expire on October 31, 2001. Several commenters have stated that EPA should extend the ''Policy on Enforcement of RCRA Section 3004(j) Storage Prohibition at Facilities Generating Mixed Radioactive-Hazardous Waste'' for sufficient time to allow authorized states to adopt the rule we are promulgating today. Commenters have expressed concern that EPA may rescind the mixed waste enforcement policy or that facilities may be subjected to ''unreasonable enforcement actions,'' including citizen suits, before they have the opportunity to obtain the exemption.

Commenters are correct that it may take some time for states (who choose to do so) to become authorized for this rule allowing a storage and treatment conditional exemption from RCRA Subtitle C for mixed waste. This rulemaking is intended to provide flexibility to generators of mixed waste where EPA requirements duplicate performance standards required by the NRC or NRC Agreement States. With the promulgation of this rule, EPA is expressing its view that facilities that comply with certain criteria can safely store mixed waste at NRC licensed facilities. Thus, the federal government is providing with this rule a potential option for mixed waste generators to store mixed wastes legally. We recognize that States are not required to become authorized to implement this rule. States may choose to be more stringent than the federal RCRA program. Although we do not intend at this time to extend the enforcement policy, we will monitor the implementation of today's final rule. Since States have generally followed EPA's lead on the enforcement policy, we anticipate a good number will choose to address dual regulation of mixed waste generators by acting on this rulemaking. States which do not adopt the rule may provide an enforcement policy within their states.

g. Storage unit closure. We received two comments indicating that our proposal may have generated some confusion as to how the conditional exemption would affect a facility's closure obligations for mixed waste storage units already regulated under RCRA. For example, one commenter requested that EPA develop a streamlined closure guidance for applicable facilities that are NRC licensed and can demonstrate an excellent compliance history. Another commenter specifically asked us to clarify that a generator would be exempt not only from the requirement to obtain a permit, but also from closure requirements. On reviewing these comments, we realized that we had not explicitly addressed closure of previously regulated units, although it was our intent to treat these units the same way the proposal would treat new units storing exempt waste, which is to say that they would be subject only to NRC decommissioning requirements, and not also to RCRA closure requirements. This is clear for new units, since the waste would not be hazardous and would not trigger closure requirements.

Thus, we are modifying the final rule to add § 266.260 to exclude LLMW storage units containing conditionally exempt waste from RCRA Subtitle C closure requirements. Without this modification, the rule could be read to require that facilities currently managing low-level mixed waste in permitted or interim status units to close these units because they no longer would be receiving hazardous waste. See 40 CFR 264.113 and 265.113. It was not our intent to require LLMW storage tanks or containers to be emptied and decontaminated to comply with RCRA closure requirements merely to be refilled with the same waste (now conditionally exempt). Such closure would run contrary to our conclusion that mixed waste managed under NRC regulation renders RCRA Subtitle C regulation, including closure, unnecessary. We also see no human health or environmental rationale for treating previously regulated units differently from new units in this regard. Finally, we believe that requiring RCRA closure before the unit can manage the same waste under NRC standards could unnecessarily increase worker exposures to the radionuclides. Therefore, a facility with a permitted tank or container that is storing only conditionally exempt LLMW, and has stored only LLMW prior to the effective date of this rule, is not subject to RCRA closure requirements, and may terminate their RCRA closure obligations as to that unit by modifying the facility permit under 40 CFR 270.42. Similarly, an interim status storage facility with a unit that has stored only LLMW will not be subject to RCRA closure requirement, and should amend the facility closure plan when the stored LLMW becomes conditionally exempt after the effective date of this rule. Without a modification to a facility's permit or closure plan, a facility would, arguably, still be required to close exempted units under RCRA. Of course, a storage unit that also stores non-exempt hazardous waste, either prior to or after the effective date of this rule, will remain subject to the closure requirements of 40 CFR 264.110 and 265.110 as applicable for areas storing the non-exempt hazardous waste.

These changes related to closure of a permitted or interim status storage unit, as described above, do not affect the applicability of corrective action authorities that the EPA or authorized State may have to address releases from these units (or from other solid waste management units at the facility). For these facilities, all hazardous wastes will be addressed either through the NRC requirements for decommissioning and decontamination (D&D) or through the use of our corrective action authorities. We note that current NRC guidance states that when an NRC inspector is preparing to inspect any facility that is undergoing decommissioning, the inspector should coordinate with the U.S. Environmental Protection Agency, or the appropriate State agency if the decommissioning involves hazardous waste. (See NRC Inspection Manual, Chapter 2602, 2602–05 General Guidance, 05.05 Inspection Coordination.) EPA commits to working with NRC to ensure that coordination with EPA or the appropriate state agency continues on these previously regulated units undergoing decommissioning.

B. Discussion and Response to Comments on Storage Background Studies

The storage and treatment provisions of our proposed and final rule are based on studies which we cited in the preamble to the proposal. These studies are available as supporting documents to provide background information to the public and to commenters on this rulemaking. These studies are ''Review of Waste Management Practices and Compliance History at Nuclear Power Plants and Other Entities that Generate Low-Level Mixed Waste.'' (April 12, 1999); and ''Comparison of the EPA's RCRA Requirements and the NRC's Licensing Requirements for the Treatment (In Tanks and Containers) and Storage of Low-Level Mixed Wastes at Nuclear Facilities'' (April 2001). To determine the protectiveness of NRC management requirements for LLMW, we researched the LLW storage and treatment provisions of NRC and material licenses, reviewed NRC compliance data on violations related to storage and treatment of LLW, and compared the regulatory framework of

EPA and NRC related to waste management. We found that safeguards were in place which would protect human health and the environment during storage and treatment of LLW and LLMW.

1. Review of NRC Licensing Requirements

We researched NRC's regulatory and licensing framework under which low-level radioactive waste (LLW), and therefore LLMW, is stored and treated by waste generators. We examined provisions concerning the on-site storage and treatment of LLW to assess whether these requirements are protective of human health and the environment with respect to preventing releases of hazardous constituents. We found that NRC and NRC Agreement States regulate licensees through the issuance of performance-based regulations, regulatory guides, generic communications (Generic Letters and Information Notices), and NUREGs. These documents work together to enable the NRC and Agreement States to ensure that nuclear power facilities and other licensees are operating in a safe manner. NRC uses these tools to guide licensees on how to meet the performance requirements in the regulations, and to impose an effective and enforceable regime to ensure protectiveness of the management of radioactivity.

For example, on November 10, 1981, NRC issued Generic Letter 81–38, ''Storage of Low-Level Radioactive Wastes at Power Reactor Sites,'' and enclosure, ''Radiological Safety Guidance for Onsite Contingency Storage Capacity.'' In this generic letter, NRC discussed its position on proposed increases in storage capacity for low-level wastes generated by normal reactor operation and maintenance, and stated that the safety of the proposed increase in capacity must be evaluated by the licensee under the provisions of 10 CFR 50.59. The NRC also attached a radiological safety guide to this letter. This guide was developed for the design and operation of interim contingency low-level waste storage facilities, and stated that necessary design features and administrative controls would be dictated by such factors as the waste form, concentrations of radioactive material in individual waste containers, a total amount of radioactivity to be stored, and retrievability of waste. NRC also noted that this guidance document should be used in the design, construction and operation of storage facilities, and that the NRC would judge the adequacy of 10 CFR 50.59 evaluations based on compliance with the guidance. (NRC also referenced IE Circular No. 80–19, dated August 22, 1980, as providing information on preparing 50.59 evaluations for changes to radioactive waste treatment systems.)

NRC regulations concerning the generation, storage, and treatment of LLW are performance-based (for example, no releases or leaks), whereas RCRA regulations are more prescriptive (where types of containers and waste management are specified to prevent leaks). Based on our review, the NRC-enforceable tie-down conditions found in individual licenses protect human health and the environment from exposure to hazardous wastes during storage comparable to RCRA regulatory requirements. A compilation of the NRC documents that we reviewed can be found in the docket. (See Ref. 3, EPA's compliance history review.)

2. Research on Compliance Records of NRC and NRC Agreement State Licensees

In addition to comparing NRC's storage requirements to EPA's, we researched compliance records related to NRC radiation controls for nuclear power plants and other licensees, to determine if there were storage-related releases or mismanagement of LLW. To provide a baseline for the comparison of NRC LLW violations, we queried two of EPA's generator information management systems—the Biennial Reporting System (BRS) and the Resource Conservation and Recovery Information System (RCRIS)—to obtain the number of RCRA violations.

Using BRS data for 1995, 18,497 facilities were identified as having generated hazardous waste (including small quantity generators). These records were merged with the information from RCRIS, and then sorted by RCRIS violation area codes. The violations were sorted by group (generator, other, treatment, and transporter) and by state. Based on this process, we identified a total of 4,547 violations by a total of 1,352 facilities (or 7.3% of the 18,497 facilities). Of the 4,547 violations, 3,355 resulted from noncompliance with the generator requirements (manifesting, recordkeeping, time-in-storage, reporting, etc.); of the 3,355 generator violations, 142 involved mixed waste.

To review the NRC facility compliance records, we reviewed a number of enforcement reports for both NRC-enforced and Agreement State-enforced licensing programs. (See IV.B.1. for a summary of reports reviewed.) The number of violations reported (on a percentage basis) by NRC for both nuclear power reactors (directly licensed by NRC) and material licensees (generally licensed by NRC Agreement States) compares favorably with the percentage of violations reported by EPA. Fines, penalties, and other consequences assessed by NRC and NRC Agreement States serve to deter violations. Based upon the compliance data, the industries' record is good and will serve to protect human health and the environment. In addition, the record suggests that there will be relatively few instances of violations of conditions leading exempt LLMW to become hazardous. We conclude that regulation under Subtitle C is unlikely to improve that record significantly. For further information on applicable NRC regulations refer to 10 CFR part 20 subpart I. Information regarding NRC's regulations, or guidance documents may be obtained by either contacting the NRC Public Document Room, at 11555 Rockville Pike, Room 0–1F21, Rockville, MD 20852 (301–415–4737 or 800–397–4209, Monday through Friday, 7:30 a.m. to 4:15 p.m.), or by visiting NRC's Internet web page at *http://www.nrc.gov.*

3. Comparison of Regulatory and Management Requirements of EPA and NRC

We compared NRC documents used in license preparation with the permitting framework established under RCRA. The technical design and operating standards of the NRC licensing program meet or exceed RCRA standards in virtually all respects, though there were differences in certain procedural requirements and in areas unrelated to actual releases of hazardous waste from storage. Based on our review, we do not believe these differences undermine protection of human health and the environment, or that the super-imposition of RCRA specific standards significantly increases protection. (See Ref. 4, EPA's comparison of EPA and NRC storage and treatment requirements.)

Relevant NRC licensing criteria are in the docket for the NPRM, and also may be obtained by contacting the NRC public document room at 301–415–4737, or accessing the NRC web site at *http://www.nrc.gov.* These criteria, while designed primarily to minimize radiation risk, also address risk posed by byproduct material in general, including hazardous constituents. Because of the unique nature of mixed wastes, migration of hazardous constituents does not occur except in the presence of radionuclides. Therefore, activities performed by a licensee to safely store or address the release of the radioactivity of mixed waste will also result in the safe storage

of the chemical components of the LLMW matrix. The applicability of NRC licensing standards to mixed waste in storage is the major reason for our finding that, under specified conditions, it is not necessary to also subject these wastes to RCRA storage regulation also.

4. Conclusions Based on Our Studies

We reviewed the requirements of NRC licenses, looked into the compliance records of NRC and NRC Agreement State licensees, and compared the regulatory and waste management requirements of EPA and NRC. Based on these studies, we conclude that NRC regulatory and licensing requirements will effectively control risks from hazardous constituents as well as radioactive material. We found that there are NRC regulatory safeguards in place which will apply during the storage and treatment of conditionally-exempt LLMW in tanks and containers. Therefore, because NRC and NRC Agreement State controls effectively address the mismanagement of LLMW, RCRA Subtitle C regulation is not necessary for those wastes. As the court explained in *Military Toxics Project* v. *EPA,* 146 F.3d 948 (D.C. Cir. 1998), ''where a waste might pose a hazard only under limited management scenarios, and other regulatory programs already address such scenarios, EPA is not required to classify a waste as hazardous waste subject to regulation under Subtitle C.'' We find that NRC and NRC Agreement State regulations governing LLW address scenarios where LLMW may pose a hazard.

5. Comments Received on Our Studies

We received several comments related to the studies we completed prior to our proposal. We heard from a number of commenters regarding our comparison of NRC's and EPA's regulatory and management requirements. A number of commenters concurred, indicating that the technical record for proposing the conditional exemption was compelling. Some of them stated that our comparison was comprehensive, and supported our rulemaking proposal.

Others commenting on the comparison encouraged us to conduct additional research regarding whether a single regulatory framework provides sufficient protection to safeguard human health and the environment. Some of these commenters were concerned about NRC monitoring for radiation but not chemical releases. They also wondered if NRC has ''sufficient expertise to properly deal with many of the issues related to storage and disposal of hazardous materials.'' Another commenter suggested that we require a minimum secondary containment volume for stored liquid LLMW. This commenter wanted us to define requirements for segregating chemically incompatible wastes, and thought that quarterly inspections were not protective and should be re-evaluated. Another commenter cited a 1986 chemical accident at a uranium conversion facility as evidence that NRC management of chemical hazards is deficient.

We disagree with those commenters who believe that the conditional exemption we proposed is not protective of human health and the environment because of NRC's focus on radiation. Our thorough studies do not support these concerns. Because exempted LLMW is mixed, the same management practices that address concerns for containment of radionuclides will also address concerns for the containment of the hazardous constituent. For example, NRC requires that chemically incompatible wastes be segregated to prevent the release of not only radionuclides, but also hazardous constituents. In another example, secondary containment for radionuclide release accomplishes the containment of hazardous constituents at the same time. Further, if, or when, a chemical release should occur, radionuclides are also released. Radiation release detection as required by the license will simultaneously alert personnel of a release of the chemical matrix in which the radionuclides exist. Therefore, management practices including treatment, primary and secondary containment, inspections, emergency responses, and others, that reduce the risk of radionuclide release will also mitigate the release of hazardous constituents. In summary, the expertise required to manage LLW is very similar to that necessary to manage hazardous waste. The NRC management framework provides protection for the hazardous constituents contained in mixed waste. (Note that 10 CFR 61.56 includes many features related to the physical and chemical characteristics of the waste.) As we indicated in our studies, minor differences exist between NRC's and EPA's regulatory frameworks (including inspection frequencies); the latter is more prescriptive and the former more performance based. However, taken together, the systems are equivalent. Both prevent releases, expeditiously address releases that may occur, avoid exposures, and protect human health and the environment.

We also disagree with commenters who believe our evaluation of the NRC framework was incomplete (i.e., that additional research was necessary to determine the sufficiency of a single regulatory framework). Rather, we agree with those commenters whose review concluded that our comparison was comprehensive. Based on our previous discussion, and on the written record we reviewed, we do not believe that additional research is necessary, or would yield information contrary to the conclusions we reached as a result of our studies.

In order to ensure that the hazardous portion of LLMW receives special management attention, we have made final the conditions in § 266.230 that address both personnel training in chemical waste management and hazardous materials incidents response, and emergency planning comparable to RCRA.

One commenter's reference to a 1986 radiation accident is not compelling evidence to support delaying this rule. Firstly, the date cited for the incident does not take into account guidance or operating procedures addressing such events at facilities which NRC has subsequently developed to prevent such accidents. Two examples of NRC's attempt to address problems with facilities as they arise are the NRC document NUREG–0933, ''A Prioritization of Generic Safety Issues,'' which provides priority rankings to resolve safety issues that have a significant potential for reducing risk, and NUREG–1601, ''Chemical Process Safety at Fuel Cycle Facilities, August 1997, which specifically addresses the handling of chemicals such as the one involved in the 1986 accident. Secondly, our review of waste management practices at NRC and NRC Agreement state licensed facilities in recent years, demonstrates an excellent record of safety, even when compared to hazardous waste management under RCRA. Thirdly, the accident cited by the commenter was not a waste management accident, but a chemical processing accident (allegedly caused by negligence). Finally, a single example of an accident that occurred 15 years ago does not lead us to conclude that the two regulatory schemes do not provide equivalent protection.

VII. How Are the Final Transportation and Disposal Provisions Different From the Proposal?

The final rule contains a number of language changes to respond to comments, and to make the storage and treatment exemption, and transportation and disposal exemption more consistent with each other. However, the final rule maintains conditional exemptions for

storage and treatment, and transportation and disposal. The changes to our proposal for transportation and disposal are highlighted below, and are discussed in greater detail in Section VIII of this preamble.

Streamlined Language

In the final rule we have streamlined our discussion of what the transportation and disposal conditional exemptions do and what the eligibility requirements are (§ 266.305 and § 266.310, respectively). These changes were made for clarity, and do not represent a substantive modification.

Specification Related to Containers

The language we used in the proposal was not clear as it related to the types of containers that must be used prior to placing the exempted waste in a disposal cell. We have specified in the final language that the container must be: a carbon steel drum, an alternative container with containment performance in the disposal environment equivalent to a carbon steel drum, or a high integrity container as defined by NRC. We made this clarification in § 266.340.

Notification

The proposed rule required you to notify multiple regulators and the LLRWDF during implementation of the conditional exemption. We proposed that you notify three separate regulators with various waste information. In addition, we also proposed that you notify the same agencies of any change in information presented in the initial notification, including a claim for the exemption of any waste stream not identified in the initial notification. In response to public comments, we streamlined the requirement of notifying the regulators. In the final rule, you must notify your RCRA regulatory agency. However, you are not required to notify the RCRA regulatory authority at the state where the LLRWDF resides, or NRC or NRC Agreement states that licensed the LLRWDF as proposed. In addition, we simplified the notification so that it is a one-time notice in order to identify who is claiming the exemption. As a result, you are no longer required to provide information such as the process that generated the waste, or the volume of the waste. You are also not required to notify your RCRA regulatory agency of changes from initial notice.

We modified slightly the proposed shipment-specific notice to a LLRWDF. It now incorporates a couple of elements that were previously in the notice to regulatory agencies (treatment standard verification and a signature requirement). We also added a statement indicating that the exempted waste must be placed in a container for disposal.

In the proposed rule, we proposed that you notify your RCRA regulatory agency in writing within 30 days of learning of your failure to satisfy any of the conditions and RCRA requirements under the conditional exemption. In response to comments, the final rule does not require reporting of noncompliance with paper work and administrative types of RCRA requirements such as notification and recordkeeping. However, we do require reporting of noncompliance with conditions in § 266.315.

Recordkeeping Requirements

We removed the proposed recordkeeping requirements associated with the notice of change to the regulatory agency, since this notification is not required in the final rule. We revised the duration you must keep your exempted waste manifest records from ''until closure of the disposal facility or closure of your facility'' to reliance on the existing NRC or NRC Agreement State requirement. We also revised your recordkeeping duration for the notice to the LLRWDF from ''until closure of the disposal facility or closure of your facility'' to ''for three years after the exempted waste is sent for disposal.''

Point of Exemption

The point at which a waste meeting land disposal restriction (LDR) treatment standards is conditionally exempted from RCRA regulatory requirements remains unchanged from the proposal. However, we changed one of the elements that described the point of exemption (§ 266.330[b]) from ''receiving return receipts from the regulators'' to ''receiving return receipts from the LLRWDF.''

Loss of Exemption

In the final rule, we do not require maintaining records or providing notice as conditions of keeping the exemption. Notice or recordkeeping becomes a RCRA regulatory requirement instead. Failure to meet either a recordkeeping, or a notice requirement will not result in the automatic loss of the exemption of the waste. However, the Director may terminate the conditional exemption for your waste or add additional conditions to the exemption for serious or repeated noncompliance with any of the RCRA requirements of Subpart N. In addition, such a failure may subject you to an enforcement action requiring compliance, monetary sanctions, or both.

In another change, we specified minimum reporting requirements in § 266.355(a) when you report the loss of an exemption.

Finally, in § 266.355(a) we added the provision of orally notifying your RCRA regulatory agency within 24 hours of discovery of failure to meet any of the conditions if the failure may endanger human health or the environment. This oral notice must be followed up with a written notice within 5 days.

Reclaiming the Transportation and Disposal Exemption

In the final rule, we have slightly modified the procedure you must follow to reclaim an exemption for your waste. You are required to send a notice to your RCRA regulatory agency, by certified delivery with return receipt requested, that you are reclaiming the exemption for your waste. In the final rule, the reclaimed exemption becomes effective after you receive the return receipt from this reclaim notice. This procedure is different from the proposal, which allowed the reclaimed exemption to become effective as soon as you meet the reclaim requirements for your waste. In addition, you may initiate the reclaim process for your waste only after you have received the return receipt from your RCRA regulatory agency confirming that it has received your notice that you have lost the exemption for your waste. We made these change in response to comments received on our question on whether there should be a waiting period prior to a reclaimed exemption becoming effective.

VIII. Discussion and Response to Major Comments on the Transportation and Disposal Conditional Exemption

In today's rule, we are finalizing a conditional exemption from RCRA Subtitle C regulation for hazardous wastes containing LLW and/or NARM that are transported and disposed of subject to NRC or NRC Agreement State regulation. Eligible wastes (LLMW or Eligible NARM) that are managed in accordance with the conditions under § 266.315 are exempt from the RCRA regulatory definition of hazardous waste. The conditional exemption takes effect once specified actions have occurred. You then may manage your wastes as you would solely radioactive wastes. Since the point of exemption takes place when a waste is placed on a transportation vehicle destined for a low-level radioactive waste disposal facility (LLRWDF) for disposal, the exempted waste need not comply with RCRA Subtitle C transport and disposal

requirements. This conditional exemption acknowledges the protection provided by NRC and NRC Agreement States regulations for the manifest, transportation, and disposal of the radioactive portion of the eligible waste.

The conditions for the transportation and disposal exemption are listed in § 266.315, and include the following:

- The wastes must meet LDR treatment standards;
- Waste shipments from those of you who are not already subject to NRC or NRC Agreement State manifest and transportation regulation must comply with the NRC (or NRC Agreement State) manifest and transportation regulations;
- The wastes must be disposed of at a LLRWDF licensed by NRC (or Agreement State); and
- The wastes must be disposed of in containers that meet specified minimum requirements.

Your waste automatically loses its transportation and disposal exemption if you failed to meet any of the conditions specified in § 266.315. You must notify your RCRA regulatory agency when your waste loses its exemption. You may be subject to an enforcement action requiring compliance, monetary sanctions, or both for any violations that occur as a result of this loss of exemption. You may reclaim your transportation and disposal conditional exemption for your waste if it again meets the conditions specified in § 266.315, and you notify your RCRA regulatory agency that you are reclaiming the exemption for your waste.

A. What Is the Basis of the Transportation and Disposal Conditional Exemption?

We determined that a conditional exemption from RCRA Subtitle C regulation for the transportation and disposal of eligible waste is appropriate because we concluded that management of eligible waste under NRC and NRC Agreement State regulations coupled with the additional conditions set forth in today's rule provide a comparable level of protection for the RCRA constituents. We reached this conclusion after a thorough analysis comparing NRC transportation and disposal requirements to RCRA hazardous waste regulations. We believe that this analysis demonstrates that NRC regulations effectively protect human health and the environment for the circumstances allowed under today's conditional exemption. Thus, we do not believe the waste managed under these conditions should be subject to Subtitle C, since Subtitle C controls are not necessary to protect human health and the environment. For a complete explanation of the legal basis for establishing a conditional exemption under RCRA see the preamble to the Military Munition Rule at 62 FR 6636 (February 12, 1997). See also *MTP* vs *EPA,* 146 F3rd 948 (D.C. Cir.1998) upholding EPA authority to establish conditional exemptions under RCRA.

We received comments both supporting and opposing the general approach of our proposed rule. Forty-nine commenters—including generators, some states, RCRA facilities, members of the public, and the NRC—supported our overall approach. They believed that our proposal was sound and would provide the important and necessary regulatory protection and flexibility for the management of the eligible waste.

Of the commenters that questioned our proposed rule, some stated that NRC's regulations and requirements were established to protect against radioactive hazards and not against hazards posed by RCRA hazardous waste. Therefore, they believed that it is not appropriate to rely on NRC regulations for protection against chemical hazards. We agree that NRC and NRC Agreement State regulations were not established for the primary purpose of protecting against risks posed by RCRA hazardous waste. However, we disagree with the conclusion that it is not appropriate to rely on these regulations for protection against hazards posed by RCRA wastes.

Specifically, concerning the transportation of hazardous material, EPA and NRC have expressly adopted DOT regulations governing the transportation of hazardous material. The Department of Transportation (DOT) packaging and transportation requirements for a LW provide adequate protection against chemical hazard during the transportation of an eligible waste meeting the LDR treatment standards. DOT Hazardous Material Regulations (HMR; 49 CFR parts 100 through199) contain requirements for transporting hazardous materials. DOT HMR contains packaging, labeling, documenting, placarding, and other requirements for transporting hazardous material. The DOT hazard classification system includes materials that are explosive, flammable, reactive, toxic, infectious, corrosive, radioactive, and gases. Hazardous materials subject to the HMR must, at a minimum, be packaged in strong tight containers that can safely survive transportation incidents. EPA has adopted DOT regulations governing the transportation of hazardous materials to protect human health and the environment in the transportation of hazardous waste. NRC LLW packaging and transportation regulations have also adopted DOT regulations for transporting radioactive material. Under this conditional exemption, the exempted waste is required to meet the LDR treatment standards and therefore no longer exhibits the flammable, corrosive, and reactive characteristics. As a result, the transportation packaging requirement for the exempted waste do not need to consider these hazards. The remaining hazard of concern of the exempted waste is the toxicity of the waste. We consulted with DOT who stated, and we agreed, that the transportation packaging requirement for the transportation of the LLW is adequate for the protection against the toxic hazard that would remain in the waste that has met LDR treatment standards. (See Ref. 19, Discussion with DOT on mixed waste transportation.) Therefore, the exempted waste, once meeting the LDR treatment standards, will be properly managed if it is packaged and transported as a LLW. For these reasons, we concluded that packaging and transportation controls that apply to a LLW are adequate, appropriate, and will ensure safe management of the exempted waste during transportation.

Concerning tracking of hazardous waste, the exempted waste (a radioactive waste) is subject to NRC or NRC Agreement State equivalent manifest regulations. We conducted a detailed comparison between RCRA and NRC manifest regulations that track the movement of the exempted waste (See Ref. 12, Comparison of NRC and EPA's Waste Tracking.) We determined that NRC's waste tracking regulations are at least as stringent as RCRA regulations. Most notably, both RCRA and NRC manifests were developed to be consistent with the DOT shipping paper regulations at 49 CFR 172.200. Therefore, RCRA and NRC manifests share many basic elements, including closed-loop notification and tracking, exception reporting, and mandatory retention of manifests. However, the NRC manifest regulations exceed the RCRA Subtitle C manifest regulations in several areas, such as requiring longer manifest retention times in certain cases and specifying more stringent schedules for generators to investigate shipments for which they have not received the LLRWDF's acknowledgment of receipt. Therefore, we believe that NRC regulations for tracking low-level waste meet our needs to ensure that the exempted waste arrives at the appropriate licensed LLRWDF, and that NRC provides adequate mechanisms for

Federal or state oversight of the waste shipments.

We also reviewed NRC regulations (10 CFR part 61) and the practices of low-level waste disposal facilities to determine if they provide levels of human health and environmental protection comparable to RCRA Subtitle C permitted disposal facility requirements. (See proposal F–1999–ML2P–FFFFF, Ref. 7, Technical assessment of LLRWDFs.) This analysis included the elements of siting, disposal cell engineering and design, and management control. Our assessment indicates that NRC regulations for disposal facilities provide protection comparable to that provided by RCRA Subtitle C regulations, particularly given that we are requiring that the RCRA hazardous constituents be treated to LDR treatment standards and that the waste be placed in certain types of containers prior to disposal. More detailed discussion of this technical analysis can be found in section VIII.G. of today's document.

In summary, our analysis of NRC transportation and disposal regulations leads us to conclude that the NRC regulations coupled with a few additional conditions provide adequate protection of human health and the environment, and that regulation under RCRA Subtitle C is not necessary. The fact that NRC regulations were designed primarily for the purpose of protecting against radioactive waste is largely irrelevant since the regulations are designed to ensure protective transporting, tracking, and containment of the waste, which will protect against chemical hazards as well as radiation hazards.

B. What Wastes Are Eligible for the Transportation and Disposal Conditional Exemption?

As we proposed it, the transportation and disposal conditional exemption would apply only to LLMW that meets the waste acceptance criteria of a LLRWDF and Eligible NARM. A LLMW is a RCRA hazardous waste as defined in 40 CFR part 261, containing a low-level radioactive waste as defined in 10 CFR 61.2. A table identifying the types of RCRA hazardous waste commonly found in LLMW is provided as background material in the RCRA Docket (See Ref. 10, RCRA Hazardous Constituents and Waste Codes.) In the final rule, Eligible NARM is defined as a NARM waste that contains RCRA hazardous waste, and meets the waste acceptance criteria of, and is allowed by State NARM regulations to be disposed at a LLRWDF licensed in accordance with 10 CFR 61 or NRC Agreement State equivalent regulations.

NARM is defined by its origin of generation rather than by the level of its radioactivity. The manner in which NARM waste is managed depends on the radioactive content of the material. In most cases, NARM waste is radiologically similar to low-level radioactive waste. Because today's rule applies to LLMW, we are extending the exemption to NARM only when its radioactive content is comparable to LLW and is managed as such. A LLRWDF is required to establish waste acceptance criteria as part of its license requirements to ensure protection of human health and the environment. The waste acceptance criteria are derived from the performance criteria of the disposal facility and ensure that only those wastes that can be accepted and properly managed at the LLRWDFs are accepted. Therefore, we are requiring that in order to be eligible for the transportation and disposal exemption, your Eligible NARM waste must meet the waste acceptance criteria of a LLRWDF and therefore will be properly managed.

In the proposed rule, we solicited comments on the applicability of this conditional exemption to hazardous waste contaminated with NARM. We received comments that both supported and questioned the inclusion of NARM contaminated with RCRA hazardous waste for the exemption. Those who supported including this waste stated that we should not exclude NARM waste solely because it is not regulated under the Atomic Energy Act (AEA). They also stated that the source of generation of the radioactive material, under which NARM is defined, should not have bearing on whether the NRC or Agreement State equivalent regulations provide a sufficient level of protection for the waste. They stated that NARM is similar to LLW, and should be eligible for the conditional exemption.

Those who opposed the inclusion believe that the NRC has no regulatory authority over NARM. We note that although NRC does not have regulatory authority over NARM, the States may regulate this material. Some states have laws and regulations in place for managing this material. We note that all three states that license the existing LLRWDFs have such authority. In the case of Non-NRC Agreement states, where the NRC implements the radioactive material management regulations, the States may enact additional laws and regulations to regulate NARM. However, to ensure that there will not be regulatory gap under this conditional exemption for NARM, we are specifying that you can claim this exemption for your Eligible NARM waste and dispose of the NARM waste at a LLRWDF only if state laws and regulations governing that LLRWDF allow the disposal of NARM waste. In addition, as discussed earlier the waste acceptance criteria of a LLRWDF will ensure that any NARM accepted at a LLRWDF will meet the licensing requirement and will be properly managed. Therefore, there is no regulatory gap in managing NARM waste even though the NRC does not have regulatory authority over this waste.

We received two comments requesting that DOE waste be excluded from the exemption due to oversight concerns. Rather than excluding DOE waste from eligibility for the conditional exemption, we fashioned the conditional exemption to ensure external oversight of DOE waste. First, to be exempt, eligible waste must be disposed of at an NRC or NRC Agreement State licensed LLRWDF. Second, DOE must follow the NRC or NRC Agreement State equivalent manifest and transportation regulations. These conditions ensure that any exempted DOE wastes are under the oversight of an external regulatory agency. (As explained below, in the case of the manifest and transportation provisions, the agency would be the RCRA regulatory agency, by virtue of a condition contained in the final rule.)

C. What Conditions Must You Meet for Your Waste To Qualify for and Maintain the Transportation and Disposal Conditional Exemption?

1. Land Disposal Restriction Treatment Standards

As we proposed, eligible waste must meet the RCRA Land Disposal Restriction (LDR) treatment standards before it is transported and disposed of as an exempted waste. You can find the RCRA LDR treatment standards in 40 CFR part 268, subpart D.

In HSWA, Congress prohibited the land disposal of hazardous waste unless the waste is treated to minimize threats to human health and the environment. The statute required EPA to establish treatment standards that will substantially diminish the toxicity or mobility of hazardous waste to minimize short and long-term threats to human health and the environment. We have developed a series of treatment standards for hazardous waste based on the best demonstrated available technology (BDAT) for treating the waste. The LDR treatment standards ensure that the organic constituents are

destroyed or substantially reduced and the mobility of the toxic metals are stabilized to minimize threats to human health and the environment. In contrast, the approach to waste treatment for a radioactive waste is stabilization and containment while the waste undergoes radioactive decay. We could not confidently conclude that NRC waste stabilization requirements for radioactive waste assure long term protection of human health and the environment from all types of RCRA hazardous waste. Therefore, we have decided to maintain the LDR treatment requirements as a condition of the exemption.

In some instances, a RCRA hazardous waste becomes a nonhazardous waste when it is treated to the designated LDR treatment standards. These situations involve treatment standards for ignitable, corrosive, and reactive characteristic wastes, and most standards for the toxic characteristic wastes. Some of the treatment standards for hazardous debris also allow the treated debris to be managed as a nonhazardous waste. In addition, there are other processes (e.g. delisting under 40 CFR 260.20 and 260.22) through which a RCRA hazardous waste can become a nonhazardous waste. Under these situations when your LLMW or Eligible NARM waste is no longer a RCRA hazardous waste, you do not need to claim the transportation and disposal conditional exemption in order to manage and/or dispose of the resulting waste as a LLW or a NARM waste. The resulting waste would be regulated as a radioactive waste only. You should contact your RCRA regulatory agency if you have questions concerning the treatment standards or the processes which may allow your LLMW or Eligible NARM waste to be regulated as non-hazardous waste.

You must continue to comply with all other provisions associated with the LDR treatment regulations (e.g. sampling and analysis to determine compliance with LDR treatment standards or certifying such compliance). Additionally, recognizing the public's concern over potential radiation exposure from mixed waste testing we developed a mixed waste testing guidance. The guidance was developed in close coordination with NRC, and is titled ''Joint NRC/EPA Guidance on Testing Requirements for Mixed Radioactive and Hazardous Waste.'' You can find this guidance at EPA's mixed waste web site at (*www.epa.gov/radiation/mixed-waste/*). The primary purpose of the guidance document is to assist you in the characterization of mixed waste in accordance with RCRA regulations, while keeping radiation exposure as low as reasonably achievable (ALARA). The guidance document emphasizes flexibility in the RCRA testing requirements to incorporate the ALARA concept.

In the proposed rule, we solicited comments on whether we should exclude LDR Phase IV alternative soil treatment standards from the LDR treatment standards that eligible waste must meet for you to claim the conditional exemption. The majority of the commenters supported including the alternative soil treatment standard as part of the LDR treatment standards which must be met to qualify for the conditional exemption. The Association of State and Territorial Solid Waste Management Officials commented that this decision should rest with the States in which the disposal will occur.

We believe that it is appropriate to include the alternative soil treatment standards under this conditional exemption. We promulgated the alternative soil treatment standards under the LDR Phase IV Rule found at § 268.49 to provide flexibility for remediation activities. The LDR Phase IV Rule can be found at [63 FR 28602–28622, May 26, 1998]. In the LDR Phase IV Rule, we determined that the technology-based treatment standard (90 percent reduction capped by 10 times the Universal Treatment Standards) for contaminated soil is sufficiently stringent to satisfy the core requirement of RCRA § 3004(m) that short and long-term threats to human health and the environment are minimized. The alternative soil treatment standards also consider the need to encourage remediation of contaminated soil which involves excavation and treatment of the soil. In the case of this conditional exemption, wastes treated to LDR treatment standards, including the alternative soil treatment standards, must be placed in a container for disposal. We believe the soil treatment and waste container requirement, in conjunction with the protection provided by the radioactive waste disposal facility, ensure protection to human health and the environment. We note that states may impose more stringent requirements when they adopt this rule. In conclusion, the final rule does not exclude the alternative soil treatment standard in § 268.49 from the LDR treatment standard in today's transportation and disposal conditional exemption.

2. Manifest and Transportation

a. If you are subject to NRC or NRC Agreement State regulation: Today's final rule relies on NRC or NRC Agreement State manifest and transportation regulations (which also refer to DOT regulations at 49 CFR parts 100–199) to control the manifesting and transportation of the exempted waste shipment. If your exempted waste streams are already subject to these externally regulated manifest and transportation requirements, you have no additional transportation and manifest requirements or conditions under today's rule. The Agency believes it is unnecessary to impose additional requirements on you because your waste shipments already are subject to NRC, NRC Agreement State, or DOT enforcement actions if you failed to meet the manifest or transportation regulations.

b. If you are not directly subject to NRC or NRC Agreement State regulation: Today's rule imposes a condition on facilities, such as DOE facilities, whose radioactive waste shipments are not directly subject to NRC or NRC Agreement State manifest and transportation requirements. The condition requires these facilities to comply with the manifest requirements at 10 CFR part 20 (or NRC Agreement State equivalent regulations), and/or the transportation requirements under 10 CFR part 71 (or NRC Agreement State equivalent regulations). This condition is necessary because such facilities are not subject to enforcement actions by NRC or an NRC Agreement State in the event they fail to meet the NRC or NRC Agreement State specified requirements. Hence, as an alternative to NRC or NRC Agreement State oversight, when such a facility fails to meet this condition in today's rule, the facility's waste will automatically lose its exemption. This facility may become subject to an EPA (or RCRA-authorized State) enforcement action requiring compliance, monetary sanctions, or both, thus providing an external enforcement mechanism that would otherwise not exist. This approach addresses concerns regarding shipment of conditionally exempted waste by facilities who are not already subject to NRC or NRC Agreement State manifest and transportation regulatory requirements. This condition also ensures the consistent application of the manifest and transportation requirements for the exempted waste.

This exemption is contingent upon waste disposal in an NRC, or NRC Agreement State, licensed LLRWDF. Therefore, it is important that a mechanism be in place to track all exempted waste in transit and confirm that the exempted waste arrives at the appropriate disposal facility. This exemption also relies on the added

protection provided by the NRC, or NRC Agreement State regulations for the transportation of the exempted waste. We do not believe this condition will impose an unreasonable burden on these facilities who are not directly subject to NRC or NRC Agreement State manifest and transportation requirements. Therefore, we are maintaining this condition as proposed.

Some commenters expressed a broad concern that reliance on the LLW manifest would not provide carriers or emergency responders with the information they need to respond to transportation incidents involving the exempted waste. We note that even though the LLW manifest does not contain specific information of the chemical constituent of the exempted waste, the emergency response procedures for an incident involving radioactive material are very rigorous and similar to the procedures used in responding to an incident involving a chemical material. In addition, an NRC or NRC Agreement State LLW manifest also contains an emergency contact telephone number allowing the emergency responder to contact the shipper for additional information on the waste contained in the particular shipment if needed.

It is important to note that the exempted waste will be treated to meet the RCRA LDR treatment standards. In particular, the acute hazards related to the reactivity, corrosivity, and ignitability characteristics of the RCRA characteristic waste that are of primary concern during transportation, will be eliminated when a waste is treated to LDR treatment standards. The chronic toxicity of the toxic characteristic and listed wastes will also be greatly reduced. Also, the exempt waste will not contain free liquids, which will significantly enhance containment of the waste.

A professional emergency responder is trained to manage a wide variety of transportation incidents. The responders will approach radioactive wastes with the same care and caution as they would use in approaching a LLMW. Radioactive constituents generally have similar exposure pathways to humans (e.g. dermal contact, ingestion, or inhalation) as RCRA hazardous constituents do. Therefore, emergency response personnel would take the same precautions as they would for a RCRA hazardous waste such as wearing protective clothing and carrying supplied air. Also, because radioactive wastes present a risk based on the responder's proximity to the waste package, emergency responders also will limit their proximity and time near the waste as they would for a RCRA hazardous waste. Therefore, we believe the concern raised by these commenters is properly addressed due to the nature of the waste and the procedures and precautions that will be taken for responding to a radioactive waste transportation incident.

3. Container Requirement

Today's rule requires placing the exempted waste in a container before disposal. The container must be one of the three types specified under § 266.340:

- A carbon steel drum;
- A container with equivalent containerization performance in the disposal environment as a carbon steel drum; or
- A high integrity container as defined by NRC.

It is your responsibility to make the appropriate arrangements and ensure that the exempted waste is placed in a container for disposal.

The proposed rule did not require specific types of containers, but instead specified that the container ''cannot be cardboard or fiberboard boxes.'' However, a commenter indicated that they did not believe that this standard was prescriptive enough to ensure appropriate containment of the waste. We agree with this comment. In response, we have specified in the final rule the acceptable types of containers which are consistent with the technical analysis performed during the rulemaking process.

In the proposed rule, we noted that both EPA and NRC disposal facility requirements provide similar features to isolate waste from its disposal environment. An NRC disposal facility is not required to have a synthetic liner, whereas a RCRA facility is. To ensure an equally protective disposal environment for purposes of the conditional exemption, we compared the performance of the RCRA hazardous waste landfill synthetic liner to the performance of a carbon steel drum and a high integrity container (as defined by NRC). We found that the performance of these specific containment devices are comparable for the purpose of retaining the integrity of the waste in the disposal cell (See Ref. 7, Technical Evaluation.) The Agency based its proposed container requirement on the landfill liner and container comparison analysis, but now realizes that the proposed regulatory language could allow disposal alternatives that do not provide the same protections as we intended. The proposal language specified that the container cannot be cardboard or fiberboard boxes. Some commenters noted that the description would allow paper boxes or wooden crates that are also unacceptable.

The final requirement is still flexible in that it allows for alternatives to carbon steel drums as long as the container used achieves equivalent performance. We also allow the use of high integrity containers (HICs) since they must pass a series of rigorous tests as specified by NRC to demonstrate that they will retain their structural integrity for 300 years or more. These HICs are more often used by LLRWDFs to stabilize and contain wastes with higher radioactivity than LLMW. We decided to codify HICs for purposes of this conditional exemption because they provide containment equivalent to carbon steel drums.

4. Waste Disposal Destination

Today's final rule requires that the exempted waste must be disposed of only at a LLRWDF licensed and regulated by NRC, or an NRC Agreement State, in accordance with 10 CFR part 61 or NRC Agreement State equivalent regulations. It is your responsibility to make the appropriate arrangements to dispose of the exempted waste at the designated LLRWDF. This provision is unchanged from the proposal.

Some commenters stated that NRC shallow land burial facilities are ''designed to fail,'' and cited past failures at such facilities. Our investigation indicated that the facilities cited by the commenters were designed and operated prior to NRC's codification of regulations for LLRWDFs in 1982 at 10 CFR part 61. NRC promulgated these requirements in response to the failures and problems cited by the commenters. Since that time, the NRC and the NRC Agreement States have worked aggressively with the LLRWDF licensees to ensure that the LLRWDFs meet current regulatory requirements and additional NRC technical guidance specified in technical position papers. In particular, the NRC waste form technical position paper ''Technical Position on Waste Form (Revision 1)'' contains specific criteria on how the waste should be stabilized prior to disposal at LLRWDF. The waste form criteria are generally incorporated into the LLRWDF's license as waste acceptance criteria. In addition, since 1982, NRC regulation has prohibited disposal of liquid waste. Based on EPA's analysis of NRC and NRC Agreement State LLRWDFs, EPA concludes that LLMW treated to LDR standards will be safely managed at such facilities. (See discussion in VIII. G.)

Prior to our proposed rule, States expressed concern about DOE's self-regulating status for managing the radioactive material. Generally, States that regulate radioactive material have no regulatory oversight authority for DOE's radioactive material. However, NRC and NRC Agreement States have regulatory authority over commercial and other non-self regulating federal facilities that manage radioactive materials. Therefore, in today's rule, we are exempting only those wastes disposed of at an LLRWDF that is licensed and regulated by NRC or an NRC Agreement State. This approach will ensure that all exempted waste (radioactive waste) remains under an external regulatory framework and enforcement authority. DOE may take advantage of the transportation and disposal exemption if it disposes of its exempted waste in LLRWDFs licensed and regulated by NRC or an NRC Agreement State. This approach addresses the States' concern and allows DOE to take advantage of the exemption. All of the comments on this provision supported the Agency's proposed approach.

D. What Other Provisions Must You Meet?

The Agency is finalizing the RCRA notification and recordkeeping requirements for this rule. These RCRA requirements are obligations that you must meet at all times. If you fail to meet these RCRA requirements, you must take prompt actions to return to compliance with these RCRA requirements. Your waste will not automatically lose the transportation and disposal conditional exemption if you fail to meet these RCRA requirements for your waste. However, your RCRA regulatory agency may terminate a conditional exemption or add additional conditions to an exemption for serious or repeated noncompliance with any of the RCRA requirements of subpart N. In addition, you could be subject to an enforcement action requiring compliance, monetary sanctions, or both under RCRA 3008(a) enforcement authority for failure to comply with any of the RCRA requirement(s) of subpart N for your waste.

1. Notification

Today's rule requires you to provide a one time notice to your RCRA regulatory agency under § 266.345(a) prior to the initial shipment of an exempted waste from your facility to a LLRWDF to claim the transportation and disposal conditional exemption. The notification must include your facility name, address, telephone number, and your RCRA ID number. You need not notify your RCRA regulatory agency again for subsequent shipments of the same or a different waste stream from your facility. The purpose of this notice is to identify to the RCRA regulatory agency those of you who are claiming the conditional exemption.

Today's rule also requires you to notify the LLRWDF receiving your exempted waste before each shipment of your waste. Your notification must provide the information required under § 266.345(b) which includes:

- A statement that you have claimed the exemption for your waste;
- A statement that the waste meets all applicable LDR treatment standards;
- A statement identifying your facility name, address, and RCRA ID number;
- All applicable RCRA waste codes for the waste before the waste was exempted;
- A statement that the exempted waste must be placed in a container for disposal;
- The manifest number of the shipment that will contain the exempted waste; and
- A certification that the information provided is true, accurate and complete.

We expect that most, although not all, of the information on this notice to a LLRWDF will remain the same from shipment to shipment, especially when the same waste stream is continuously being shipped for disposal. Therefore, a previous notice to the LLRWDF can easily be updated and used as the new notice. Alternatively, you also can choose to develop your own standard notice to an LLRWDF with unchanging information already filled in.

The notice in § 266.345(b) serves several important purposes. First, it will allow the LLRWDF receiving the exempted waste to identify the waste and place it in a container for disposal. Since the exempted waste would be managed and identified as any other radioactive waste after the point of exemption (See discussion in section VIII. E.), a mechanism is needed to allow the identification of the exempted waste at the LLRWDF. The manifest number of a shipment that contains exempted waste will enable such identification. In the case of the standard NRC Uniform Low-Level Radioactive Waste Manifest Form 541, the manifest number appears in block number 2.

Second, the notice informs the LLRWDF that it is receiving a conditionally exempted waste, and allows it to take actions that it may deem appropriate. A LLRWDF's willingness to receive the exempted waste is essential in obtaining the benefit of this rule. During the proposal stage of this rulemaking, owners and operators of LLRWDFs indicated that they want to know when they would be receiving an exempted waste. (See Ref. 9, Notes of meeting with LLRWDFs.) They want to be able to decide, on an operational basis, whether to take precautionary actions such as screening for specific constituents in a shipment or screening for LDR compliance. The information regarding the RCRA hazardous waste codes of the waste stream before it was exempted will allow the LLRWDFs to be aware of the content of the waste and take proactive steps as they deem appropriate. In addition, you may only ship the exempted waste to an LLRWDF after you have received the return receipt from the LLRWDF confirming that it has received your notice. This provision ensures that the LLRWDF will have advance notice of the arrival of the exempted waste so that the LLRWDF can ensure that the exempted waste is handled accordingly.

Finally, this notice, in conjunction with the recordkeeping requirement, also will provide information to facilitate inspection and other oversight activities. You are required to keep records of this notice, and make these records available during inspection or upon request.

The notification requirements in today's final rule differ from the proposed rule in several respects:

- Simplified initial notices to regulatory agencies when claiming an exemption;
- Added notification elements in the notice to LLRWDF to ensure proper handling of the exempted waste at the LLRWDF;
- Removed notices to regulatory agencies of changes in information submitted in the initial notice;
- Removed notices to regulatory agencies of failure to satisfy recordkeeping or notification requirements; and
- Changed status of the notice to your RCRA regulatory agency when claiming the conditional exemption from a condition of the rule to a RCRA requirement. (See loss of exemption discussion in Sec. VIII.F.2.)

We received comments that both supported and opposed the multiple notifications to the regulators and the LLRWDFs. Some commenters stated that proper notification to the LLRWDF will allow the LLRWDF to prepare for receipt of waste and ensure compliance.

To address the concern raised regarding multiple notices, we evaluated the proposed notification requirements. We found difficulties and burdens associated with multiple notifications and broad notification requirements. Consequently, we simplified the notification requirement by reducing the number of regulators you must notify and the amount of information you must provide. In the final rule, you need only notify the RCRA regulatory authority. You are no longer required to provide information such as the exempted waste volume and the process that generated the waste. The re-notification of changes from the initial notice to the regulator also is not required. The intention of the proposed notices to the regulators was to identify those of you who are claiming the conditional exemption, and to provide information on the exempted waste. The revised notice to your RCRA regulatory agency in today's final rule will continue to serve these purposes while reducing unnecessary burden. The notice will identify those of you who are claiming the conditional exemption. In addition, even though the notice will not contain information about the exempted waste, the regulatory agency can still obtain information related to the waste or other aspect of the exemption from you when necessary because you are required to keep records related to the exemption.

We also evaluated the notice to the LLRWDF. We modified this shipment-by-shipment notification requirement to ensure that the exempted waste will be properly managed at the LLRWDF. We slightly expanded this notice requirement to include the following additional information: a statement that you have claimed the exemption; a statement that the waste meets the LDR treatment standards; and a statement that the exempted waste must be placed in a container for disposal. This information can be included in a standard form letter. Therefore, we do not expect that the additional information requested will increase the reporting burden. This notice to a LLRWDF will continue to include identification information including your facility and the RCRA waste code of the waste stream. We believe this notification requirement will provide the mechanism to ensure proper handling of the exempted waste at the LLRWDF.

Notices to your RCRA regulatory authority and the LLRWDF, in conjunction with the recordkeeping requirement, will provide adequate information to facilitate inspection and enforcement activities. You are required to maintain records of the exempted waste, and must make records available during an inspection or upon request. (See Sec. VIII. D. 2. of this preamble.) The state regulator who licensed the LLRWDF can obtain information about the exempted waste from the RCRA regulatory authority where the LLRWDF is located or where you are located.

In the proposed rule, we required you to report to your RCRA regulatory agency when you fail to satisfy administrative and paper work requirements, such as notification or recordkeeping. Many commenters said that this provision is unnecessarily broad and should focus only on reporting noncompliance that would endanger human health and the environment. The commenters believed that broader reporting requirements would impose an undue burden on the regulated community and provide information of little or no value to the regulators. We considered this comment and agree that reporting noncompliance with administrative requirements (such as recordkeeping) is unnecessary. We believe that human health and the environment will be protected provided facilities meet the technical conditions and standards necessary to ensure safe management of the waste. However, you are required to make the appropriate notifications, maintain records, and ensure that records are accurate and complete. You also are required to make these records available either during an inspection or as requested. If the records are found to be incomplete or inaccurate, then you are subject to an enforcement action requiring compliance, monetary sanctions, or both. These penalties can be significant. Therefore, we believe that there is a strong incentive for you to satisfy the RCRA notification and recordkeeping requirements, and make the necessary corrections promptly. As a result, we no longer require you to report noncompliance with notice and recordkeeping requirements.

2. Recordkeeping

Today's rule includes recordkeeping provisions in § 266.350 as follows:

- Records in § 266.350(a) reference the existing RCRA recordkeeping requirements necessary to demonstrate compliance with the LDR treatment standards.
- Records in § 266.350(b), (c) and (d) are necessary to demonstrate compliance with the RCRA notification requirement and waste container condition of the conditional exemption.
- Records in § 266.350(d) are also necessary to document that exempted waste was disposed of at the designated disposal facility. It enables regulators to track and identify the shipment of low-level radioactive waste that contained exempted waste.
- Records in § 266.350(e) are necessary to document and demonstrate compliance with the manifest and transportation condition for the facilities who are not directly subject to NRC or NRC Agreement State manifest and transportation regulations.

These records will provide the regulatory agency with information during inspections to determine whether you are complying with all of the conditions and RCRA requirements of the rule. It is important that you maintain a complete and accurate set of the required records, and that you make them available when requested. The recordkeeping provision is now a RCRA requirement instead of a condition for the exemption. Your waste will not automatically lose the exemption if you fail to meet the recordkeeping requirements. However, you could be subject to an enforcement action requiring compliance, monetary sanctions, or both.

We received comments both supporting and questioning the proposed duration of the recordkeeping requirements. Specifically, some commenters voiced concern over requiring a generator or treater to retain records for the radioactive waste manifest and the notice to LLRWDF until closure of the LLRWDF or closure of the generator's or treater's facility. These commenters stated that such requirements are overly burdensome and inconsistent with existing regulations, and indicated that the proposed recordkeeping timeframes could result in record retention for decades after a waste was shipped. They pointed out that both NRC (10 CFR part 30) and EPA (40 CFR part 262) regulations require a generator or treater to retain records for only three years. In addition, they stated that 10 CFR 61 already requires a LLRWDF to maintain records of the LLW manifest until termination of the LLRWDF license activities.

We reexamine the proposed recordkeeping duration requirement and agreed with the commenters that it is not necessary for a generator or treater to maintain records beyond three years after the waste is sent for disposal. Therefore, the final rule requires the records be retained for three years. In the case of maintaining LLW records such as the LLW manifest, this time period is consistent with NRC regulations under 10 CFR part 20, or equivalent NRC Agreement State regulations which generally is also three

years for generators and treaters. For disposal facilities, the NRC manifest records are maintained by the facility until closure of the LLRWDF or closure of the generator's or treater's facility. Although not required by today's rule, we recommend and encourage LLRWDF's to similarly maintain their copy of the exempt-waste notices until facility closure since these records could be useful in the future for identifying the exempted waste that was disposed at the facility.

Today's recordkeeping requirement changed from the proposed rule as noted below.

- In the proposal we had required you to keep NRC manifest records until closure of the disposal facility or closure of your facility. In the final rule you only need to keep records of the NRC manifest for the time period required by NRC.
- In the proposal we had required you to keep your notices to LLRWDFs until closure of the disposal facility or closure of your facility. The final rule only requires you to keep the records for three years after the exempted waste is sent for disposal.
- The recordkeeping requirement is a RCRA requirement under the authority of sections 2002 and 3007 of RCRA instead of a condition of the rule. (See loss of exemption discussion in Sec. VIII.F.2.)
- You are not required to report noncompliance related to recordkeeping requirements. (See Sec. VIII.D.1. notification discussion.)
- The recordkeeping requirements associated with the re-notification to regulator of changes have been removed because this notice no longer exists. (See notification discussion in Sec. VIII.D.1.)

E. When Does the Transportation and Disposal Exemption Take Effect?

Today's rule conditionally exempts eligible waste from RCRA Subtitle C manifest, transportation, and disposal requirements because we found that RCRA Subtitle C regulation is not necessary if waste meeting LDR treatment standards and containerized prior to disposal is managed according to NRC manifest, transportation, and disposal requirements for the management of the radioactive component of the waste (See our technical evaluation, Ref. 7, and our comparison of NRC and EPA waste tracking, Ref. 12.) The Agency has chosen to exempt the waste from the RCRA regulatory definition of hazardous waste at the point where your waste meets LDR treatment standards; you have completed NRC or NRC Agreement State equivalent packaging, preparation for shipment, and manifest requirements; and you have placed the waste on a transportation vehicle destined for an LLRWDF licensed by NRC or an Agreement State. Once the exempted waste has been placed on a transportation vehicle for disposal, the waste may not be taken to other facilities for further management purposes. Stops during transportation to pick up additional wastes, or to transfer wastes (including radioactive waste transporters using their transfer facilities to consolidate radioactive waste shipments) are not considered ''further management.''

Thus when:

- Your eligible waste meets LDR treatment standards;
- You have received return receipts confirming that you have notified your RCRA regulatory agency and the receiving LLRWDF;
- You have completed the Packaging and Preparation for Shipment requirements for the eligible waste according to NRC Packaging and Transportation regulations found under 10 CFR part 71 (or NRC Agreement State equivalent regulations);
- You have manifested the treated waste according to NRC manifest regulations found under 10 CFR 20.2006 (or NRC Agreement State equivalent regulations); and
- You have placed the waste on a transportation vehicle destined for the receiving LLRWDF,

then the exempted waste may be transported as a LLW or NARM. Once properly containerized at the disposal facility, the exempted waste may also be disposed of as LLW or NARM.

We received comments describing complications if the point of exemption occurs when the waste has been placed on a truck destined for a disposal facility. The commenter indicated that facilities often use centralized waste staging areas to package, label, inspect, and manifest wastes in preparation for transportation. According to the commenter, placing the point of exemption after the waste is placed on the transportation vehicle would require meeting both RCRA hazardous waste and NRC radioactive waste packaging and labeling regulations instead of meeting just the NRC radioactive waste packaging and labeling regulations. However, this was not our intention because we found that the NRC or Agreement State packaging, preparation for shipment, and manifest requirements are adequate for the shipping and tracking of the treated waste. Therefore, we are clarifying that it is not necessary to package, label, and manifest the waste as RCRA hazardous waste when preparing the waste for transportation to disposal. The exemption will start at the moment waste is placed on the transportation vehicle if you claim and qualify for this conditional exemption.

Another commenter expressed concern over the proposed requirement that exempted waste not go to any other facility en route to the designated LLRWDF, other than to a transfer facility. The commenter stated that this requirement would not allow a transporter to pick up waste from more than one facility and would unnecessarily increase the shipping cost and waste shipping traffic. We agree with the commenter and are changing the final rule language to clarify that such stops are acceptable.

F. Implementation

1. How Will the Transportation and Disposal Conditional Exemption Be Implemented?

The transportation and disposal conditional exemption we are promulgating today will require no prior governmental approval or review of documentation before your waste exits RCRA Subtitle C regulations. This basic framework is consistent with other hazardous waste exemptions. It also is consistent with the LDR program. The LDR program allows a generator or treater to certify that their hazardous waste meets LDR treatment standards and qualifies for land disposal without prior governmental approval.

We are allowing this approach because we believe that there is no significant benefit to requiring approval for an exemption. Furthermore, the waste exiting RCRA Subtitle C requirements will continue to be managed under an alternate regulatory program (NRC or NRC Agreement State regulations) that provides appropriate protection for human health and the environment. This also is true for those of you who self-regulates under the AEA, because your waste also must be disposed of at an LLRWDF regulated by NRC or NRC Agreement State. Therefore, we conclude that under the proposed method, the waste will continue to be properly managed while the regulatory burden is reduced. In addition, such implementation has the following advantages:

- The exemption can take effect more quickly;
- It reduces your burden associated with acquiring the approval; and

• It does not impose a burden on the regulatory agency to review and approve the exemption.

However, this approach does not mean that the appropriate regulatory authority does not have a role in overseeing the conditional exemption. You must keep records of the exemption and make them available to the appropriate regulatory authority during inspection or upon request. The appropriate regulatory authority may conduct inspections, audit records, obtain samples, and perform any other information gathering activities authorized under RCRA, including under 3007, 42 U.S.C. 6927, to determine whether you are in compliance with all of the provisions of this exemption. Nothing in subpart N shall be interpreted or applied to restrict any inspection or enforcement authority under RCRA, 42 U.S.C. 6901, et seq.

RCRA 3008(a) gives the appropriate regulatory agency the authority to take enforcement actions when you fail to meet any of the provisions of the conditional exemption. The appropriate regulatory authority can take a direct enforcement action against you when you fail to meet a specific RCRA requirement for your waste under this conditional exemption such as the notification or recordkeeping requirement. When you lose your exemption for your waste due to failure to meet a condition of the exemption, your waste is no longer exempted and it becomes a RCRA hazardous waste. The appropriate regulatory authority can take enforcement action against you for managing a hazardous waste without complying with RCRA hazardous waste requirements. However, note that a loss of exemption can be reclaimed (see discussion in the following section). Depending on the situation that led to the loss of exemption, an exemption could be quickly reclaimed in order to avoid any significant consequences. Today's rule also does not change the ability of citizens to inform regulators of any circumstance that might aid in monitoring and enforcement efforts. A concerned citizen also may file a suit under RCRA 7002 against you for failure to meet any of the provisions of the conditional exemption. Lastly, the appropriate regulatory agency can take actions using authority under 7003 and 3013 of RCRA, 42 U.S.C. 6973, when it determines that there may be an imminent and substantial endangerment to human health or the environment.

2. Loss of Transportation and Disposal Conditional Exemption

Under today's final rule, any waste will automatically lose its transportation and disposal conditional exemption if you do not manage it in accordance with all of the conditions specified in § 266.315. Depending on which condition or conditions you failed to meet and the circumstances surrounding the failure, the affected waste could be a single drum, a number of drums, a treated waste stream containing specific waste codes, or a number of treated waste streams with specific waste codes. The exemption is lost at the time of noncompliance. The appropriate regulatory authority need not take action to remove the exemption. The conditions of the exemption are the technical conditions and standards that we have determined to be necessary to achieve proper management of the waste and ensure protection of human health and the environment. Therefore, we believe it is appropriate that a waste automatically lose its exemption if you do not manage it in accordance with these technical conditions and standards.

You must report to your RCRA regulatory agency when any of your waste loses its exemption. Your report must be in writing, by certified delivery, within 30 days of learning of the failure. In your report you must describe at a minimum: any specific condition(s) that you failed to meet for your waste, information (e.g. name, waste code, and quantity) regarding the waste stream that lost the exemption, and the date(s) on which the condition(s) were not met. The report will allow the appropriate regulatory agency to be aware of any noncompliance and to take appropriate actions, if necessary. The appropriate regulatory authority may request additional information from you to facilitate the investigation. If the failure to meet any of the conditions may endanger human health or the environment, then you also must report such failure to your RCRA regulatory agency orally within 24 hours of learning of the failure. A written notice must follow your oral notification within 5 days.

You also may lose the transportation and disposal conditional exemption for your waste for serious or repeated noncompliance with any of the RCRA requirement(s) (e.g. notification or recordkeeping) of Subpart N. In this situation, the appropriate regulatory authority may terminate your ability to claim the conditional exemption for your waste. The appropriate regulatory authority also may require you to meet additional conditions in order to claim a conditional exemption. This provision gives the appropriate regulatory authority the ability to revoke a conditional exemption from you if you have serious and repeated compliance problems related to the notification or reporting requirements.

When you lose the exemption for your waste, you may also be subject to an enforcement action requiring compliance, monetary sanctions, or both for any violation of RCRA Subtitle C regulations.

Today's loss of exemption provision changed from the proposed rule in several respects:

• In the final rule, notice to regulator and recordkeeping are RCRA requirements instead of conditions of the exemption. Noncompliance with these RCRA requirements will not result in automatic loss of exemption;

• You can lose your ability to claim a conditional exemption for serious or repeated noncompliance with any of the RCRA requirements (e.g. notice to regulator or recordkeeping) of Subpart N;

• We have specified minimum reporting requirements for reporting a failure to meet a condition; and

• We have added one reporting requirement stating that when a waste loses its exemption, if the failure to meet any of the conditions may endanger human health or the environment, you must orally notify EPA or the Director within 24 hours of discovery of failure and follow up with a written notice within 5 days.

We received comments that both supported and opposed the proposed loss of exemption provision. The commenters who supported the provision believed that an automatic loss of exemption was a strong incentive for ensuring that waste would be properly managed. However, the majority of comments expressed concern over losing the exemption due to relatively minor administrative violations such as incorrect spelling of a facility name.

Upon further evaluation, we believe that the commenters raised a valid issue. We recognize the undue difficulties and burdens associated with the automatic loss of exemption due to failure to comply with administrative requirements alone. In the proposed rule, the exemption conditions included both technical conditions and standards necessary to ensure safe management of the waste, and administrative type of requirements such as notification and recordkeeping. As proposed, when an exemption is lost due to failure to meet the administrative requirement alone, you would have to manage the waste as RCRA hazardous waste while correcting the infraction and then reclaim the exemption. However, the technical conditions and standards of the

conditional exemption necessary to ensure safe waste management would continue to be met. We believe that it is appropriate to impose the automatic loss of exemption when technical conditions and standards for safe management of the waste are not met and could by itself directly lead to impact to human health and the environment. However, we do not believe that automatic loss of exemption is warranted for errors related to administrative requirements, such as recordkeeping, which by themselves are unlikely to lead to environmental harm. We evaluated the proposed conditions and made modifications so that the administrative requirements, such as recordkeeping, are RCRA requirements instead of conditions of the exemption. The conditions as specified under 40 CFR 266.315 of today's rule are the technical conditions and standards necessary to maintain the exemption. We believe this is more consistent with the overall approach of today's rule, which is that eligible waste is not ''hazardous'' for Subtitle C purposes if properly managed. Although it is important that EPA be able to enforce paperwork violations, we do not think these violations alone support the conclusion that the waste becomes hazardous for Subtitle C purposes. As a result, the automatic loss of exemption will only apply to noncompliance with technical conditions and standards, and not to failure to meet the RCRA requirements of this rule such as recordkeeping.

Nevertheless, the notification and recordkeeping requirements serve an important function in the implementation of the conditional exemption. These RCRA requirements also play an important role in compliance determination. Therefore, we want to maintain a mechanism that will provide the appropriate regulatory authority with the ability to revoke the exemption for failure to comply with these RCRA requirements where necessary. In the final rule, the appropriate regulatory authority may terminate your ability to claim a transportation and disposal conditional exemption for your waste for serious and repeated noncompliance with the RCRA requirements of Subpart N. We do not expect this provision to be used casually. We view it as a means to ensure that you take the reporting and recordkeeping requirements seriously and that you comply with these RCRA requirements at all times. Revocation of the transportation and disposal conditional exemption would be effective after the Director takes this action and would only affect subsequent waste shipments.

We also received comments regarding the requirement to report noncompliance with the conditions and RCRA requirements of the rule. Two commenters urged us to consider requiring the facility to orally report a condition that endangers human health and the environment within 24 hours. We agree with the commenter and note that it is a standard RCRA requirement that an oral report, followed up with a written notice within five days, be made for situations that threaten human health and the environment. Therefore, we have modified the final rule to incorporate this provision.

3. Reclaiming the Transportation and Disposal Conditional Exemption

Under the final rule, any waste will automatically lose its exemption if it is not managed in accordance with the conditions under § 266.315. However, you may reclaim the exemption for your waste if it is again managed in accordance with all of the conditions under § 266.315. You may initiate the reclaim process for your waste only after you have received the return receipt from your RCRA regulatory agency confirming that it has received your loss of exemption notice that you have lost the exemption for your waste. When reclaiming a lost exemption, you must notify your RCRA regulatory agency that you are reclaiming the conditional exemption for your waste. In this reclaim notice, you must do the following:

- Explain the circumstance of each failure to meet a condition;
- Certify that each failure that caused the waste to lose the exemption has been corrected and that the waste again meets all of the conditions as of the date you specified; and
- Demonstrate that each failure is not likely to recur, listing the specific steps that you have implemented to ensure the conditions will be met.

You also may provide any other information that you want your RCRA regulatory agency to consider when it reviews your notice reclaiming the exemption.

We are requiring a notice to reclaim an exemption because the conditions of the exemption represent those technical conditions and standards which will ensure safe management of the waste. Therefore, we believe that it is important that you notify your RCRA regulatory agency of events that led to the loss of the exemption so that it can take steps, if necessary, to ensure that waste will be managed properly. The appropriate regulatory authority can review your records, collect additional information, or conduct site visits. This communication and information will allow your RCRA regulatory agency to work with you to correct the problems that led to the non-compliance with the conditions. The appropriate regulatory authority may add additional conditions, where appropriate, to the exemption to ensure proper management of the waste to protect human health and the environment.

The reclaimed transportation and disposal exemption becomes effective when you have received the return receipt confirming that your RCRA regulatory agency has received your reclaim notice. The return receipt can be a certified U.S. Postal receipt or a certified receipt from a mail delivery service. Additionally, as proposed, the appropriate regulatory authority may terminate a reclaimed conditional exemption if it finds that the claim is inappropriate.

Today's transportation and disposal exemption reclaim requirement is changed from the proposed rule in one area. We added a new requirement that you may initiate the reclaim process for your waste only after you have received the return receipt confirming that your RCRA regulatory agency has received your notice that you have lost the exemption for your waste. This provision is not required under the storage and treatment exemption. This slight variation is designed to ensure that a waste, for which the lost exemption is being reclaimed, will not be transported to a LLRWDF before your RCRA regulatory authority is made aware that you have lost the exemption for your waste.

We received comments on the issue of whether a transportation and disposal exemption could be reclaimed after it has been lost. Some commenters supported the proposed rule that allowed the exemption to be reclaimed. Some commenters noted that requiring notification to reclaim is burdensome and unnecessary. One commenter urged the Agency to disallow the reclaiming of an exemption.

In general, we believe that you should be allowed to reclaim a lost exemption. We believe that even a responsible generator or other waste handler may, on rare occasion, be in noncompliance with the conditions of the exemption. Because the consequence of the loss of the exemption for a waste is potentially the full imposition of the RCRA Subtitle C regulation, we believe a permanent loss of exemption would unduly penalize responsible generators and other waste handlers and downstream handlers. However, we want to

emphasize that failure to meet the conditions can result in RCRA enforcement actions, fines, penalties, and the permanent loss of exemption. Thus, the mechanism to discourage violation of the conditions is in place. Therefore, we are allowing you the opportunity to reclaim the exemption for its waste when the infraction has been corrected and is not likely to recur.

We note that other RCRA rules provide a similar provision for reclaiming a lost exemption. We established a conditional exemption from the RCRA transportation and storage requirements for persons that transport or store nonchemical waste military munitions in accordance with 40 CFR 266.203 or 266.205, respectively. Under that conditional exemption, we established procedures for persons to reclaim a lost transportation or storage exemption (see § 266.203[b] and § 266.205[c]). The final rule is consistent with the provisions of § 266.203 and § 266.205.

In addition, as stipulated in § 266.360(b), the appropriate regulatory authority may terminate a reclaimed exemption if warranted. This provision allows the appropriate regulatory authority to deal with repeat or serious offenders. Therefore, we believe that the final rule is adequately flexible to enable the appropriate regulatory authority to react to violations in a manner that is commensurate with the severity of the violation. The final rule not only ensures protection of the environment, but also motivates facilities to meet the exemption conditions.

In the proposed rule, we solicited comments as to whether we should impose a waiting period before the exemption could be reclaimed. We asked whether we should provide a 90-day waiting period before the reclaimed exemption is effective. We solicited input on whether a waiting period is necessary to allow time for the appropriate regulatory authority to review the reclaim notification, and to deal with repeat or serious offenders. The majority of the commenters believed that a 90-day waiting period was unnecessary. They believed that you should be able to reclaim the conditional exemption for your waste as soon as the noncompliance with the conditions is corrected with reasonable assurance that the noncompliance would not recur. Several commenters noted that further delay in reclaiming the exemption would serve no purpose and could potentially result in uncertain regulatory status and/or unreasonable enforcement action. Other commenters stated that the appropriate regulatory authority could conduct an inspection at any time and take actions if necessary. Some states believed that there should not be a binding time period for the review. Lastly, one commenter stated that without a waiting period, you would be motivated to correct the noncompliance that resulted in the loss of conditional exemption as quickly as possible in order to minimize penalties and return to exempt operations. However, several commenters indicated their support for a 90-day waiting period before allowing licensees to reclaim a lost transportation and disposal exemption so that there would be time to review documentation, conduct an inspection, and/or hold a public hearing before reinstating the exemption.

After considering the comments, we do not believe that it is necessary to require a waiting period before the exemption is reinstated if the violation has been corrected. This approach is generally consistent with the current RCRA regulatory program. For example, under the LDR program, hazardous waste generators or treaters can send the waste for disposal after self-certifying that the waste has met the LDR treatment standard without a waiting period.

Today's rule also provides the appropriate regulatory authority with flexibility regarding the amount of time it has to review a request to reclaim an exemption. It can, at any time, review the notification, request additional information, or conduct a site inspection to verify the validity of the reclaim or the purported successfulness of measures designed to prevent the recurrence of a failure. By not specifying a time period for review, we are providing regulators flexibility and the ability to evaluate any reclaim notice at any time and to focus their attention and limited resources as they deem most appropriate. This mechanism also avoids the implication that a reclaim is approved if the appropriate regulatory authority was not able to review the reclaim and respond before the end of the waiting period. We note that the appropriate regulatory authority will continue to maintain a broad range of inspection, and information collection authorities to ensure compliance with the exemption conditions under RCRA 3007, 42 U.S.C. 6927. Thus, the appropriate regulatory authority has the ability to conduct an inspection at any time, and can take enforcement actions, and assess fines and penalties if you are found to be in noncompliance with the reclaim requirements.

We believe that these requirements are sufficient for the appropriate regulatory authority to track compliance and conduct enforcement activities. Most importantly, today's rule provides the appropriate regulatory authority with adequate means to discover, evaluate, and, if necessary, terminate an exemption (for example, determine that the claim is inappropriate because the claimant failed to correct the problem). The appropriate regulatory authority can terminate the reclaimed exemption at any time for violations and does not need a waiting period to do so. Therefore, the final rule does not require a waiting period before you can reclaim an exemption for your waste. However, we want to ensure that the appropriate regulatory authority is aware that you have lost the conditional exemption for your waste before you reclaim the exemption. Therefore, you may not reclaim the exemption for your waste until after you have received a return receipt confirming that the Director has received your notification of loss of exemption. This requirement will allow the appropriate regulatory authority to initiate action, if necessary, while minimizing your burden.

G. How Did We Conduct Our Technical Assessment for the Disposal of Treated Waste at Low-Level Radioactive Waste Disposal Facilities?

We conducted a technical assessment to evaluate the protectiveness afforded by a combination of the conditions of the exemption and NRC criteria for the LLRWDF. We considered a number of factors in the analysis:

- LDR treatment and waste container conditions;
- NRC waste form requirement;
- NRC/EPA disposal site properties comparison;
- Disposal unit engineering design and performance;
- NRC groundwater monitoring;
- Other NRC/EPA regulatory comparisons.

We made our technical determination on the comparability between the NRC and EPA disposal systems based on the consideration of all of the above factors. This determination is not based solely on any one factor, but on the aggregation of all the factors considered.

In our technical assessment, we considered these factors and the potential for release of chemical constituents from LLMW disposed of in LLRWDFs, and concluded that the threat of such a release would not be significant. Several significant factors that helped support this conclusion are briefly summarized below. More detail on these factors, and a discussion of other factors that we considered, is provided in the proposed rule preamble

and the technical background document. (See Technical Evaluation, Ref. 7.)

We assessed the likelihood of a chemical release from the disposal of waste in a LLRWDF under the conditions of this rulemaking. The intent of RCRA LDR treatment standards is to significantly reduce the toxicity and mobility of chemical constituents. We performed a screening risk analysis to assess the potential for leachate releases of these constituents from wastes treated to LDR levels. We concluded that the potential threat to drinking water would be insignificant. In addition, prior to disposal the treated waste must be containerized. Therefore, we concluded, based on the treatment to LDR for both RCRA and as a condition of this rule, and container conditions along with the LLRWDF cap design performance comparable to RCRA Subtitle C performance, the potential threat to drinking water would be very low, if any.

We also assessed the protection afforded by NRC waste form criteria. NRC waste form criteria for low level waste stipulates that the waste be stabilized to ensure the structural integrity of the waste for the duration when the radioactive waste is undergoing decay. The requirement for waste form is to minimize the potential for waste/liquid contact and subsequent leachate production. Depending on the radioactivity of the waste, the structural integrity of the waste is required to last up to 500 years. The waste must pass a series of American Society of Testing Methods (ASTM) tests to demonstrate its compliance with the waste form criteria. These tests provide indication of waste form performance in the area of, among other things, structural integrity and resistance to corrosion.

We evaluated NRC's LLRWDF siting requirements and compared them to RCRA hazardous waste disposal facility siting requirements. We found that the siting requirements are very similar, with NRC siting requirements being more stringent in certain respects. The NRC siting requirement for LLRWDFs are designed to enhance the protectiveness of the disposal unit and minimize releases to the environment. These regulations ban location of disposal facilities in environmentally sensitive locations such as, 100-year flood plains, wetlands, and coastal high hazard areas. These requirements also mandate restrictions for ground water to surface water connectivity on-site.

We assessed NRC LLRWDF engineering design and performance requirements and concluded they will effectively minimize water infiltration and waste migration from the disposal cell. The LLRWDFs must be designed to limit human exposure to a specified level of radioactivity and intrusion by humans and animals. NRC LLRWDF disposal regulations require that the engineered landfill design system integrate both the site properties (climate, soil geology) along with the performance of the cover system. LLRWDFs must be designed to provide assurance that concentrations of radioactive material that may be released to ground water, surface water, air, soil, plants, or animals not result in exposures to humans above specified health-based levels. NRC and EPA disposal regulations require a final cover with low permeability to minimize infiltration of precipitation and contact of waste with infiltrated water. NRC LLRWDF disposal regulations also require a landfill design that promotes short liquid/waste residence time which would minimize the potential leachate generation at LLRWDFs.

NRC's ground water monitoring regulations require that groundwater be monitored to allow for early detection and mitigation of radiological contamination. In practice, the NRC Agreement States have also included requirements in the LLRWDFs license to monitor for selected chemical constituents.

We also estimated the annual amount of mixed waste that is expected to be disposed of at LLRWDFs under this conditional exemption. Commercial sources of mixed waste would constitute less than 0.5% of the annual total waste volume at these sites. This amount of disposal volume is expected to contribute very limited volumes of hazardous waste.

In addition to the major technical factors outlined above, we also analyzed other aspects of the NRC regulatory and licensing program for LLRWDFs. This analysis is described in detail in the technical background document. (See Technical Evaluation, Ref. 7.) Some of the key findings include:

- The NRC licensing process provides for public participation and scrutiny of potential disposal facilities, which plays an important role in not only the siting of a facility but also in prescribing conditions governing its final operation.
- NRC prohibits disposal of waste with free liquids greater than 1% by volume, waste contaminated with reactive, explosive, volatile, and corrosive materials, and LLW that is incompatible with containers used for disposal of LLW.
- NRC regulations require active care disposal facility surveillance for up to 100 years under governmental control and government ownership.
- NRC's LLRWDF disposal regulations require corrective measures for the disposal of radioactive waste to assure that corrective measures are taken if a radiation hazard becomes a groundwater concern.

We received 15 comments pertaining to our overall technical analysis and conclusions. The eleven comments supporting the technical approach came from industry associations, generators, academia, and some government agencies. They felt that the approach was thorough and presented compelling analysis supporting the conditional exemption. They agreed that the combination of LDR treatment in conjunction with the stringent controls already in place at the LLRWDFs were protective of human health and the environment. Some commenters argued that dual regulation is not appropriate and only seems to hinder the timely disposal of waste. Based on our analysis that disposal of LLMW would be properly managed in a LLRWDF, without degradation to human health and the environment, the redundant regulation by RCRA adding additional cost and time to permit the facility does not seem prudent.

In contrast, we also received four negative reactions to the technical approach from environmental groups and some State agencies. Some of the comments related to the uncertainties inherent in the analysis. Another commenter believed that we need to address all contingencies and technical aspects before making our final decision. Although there are always uncertainties associated with complex environmental analysis, we are confident of the conclusions of our technical analysis that indicate the RCRA exemption conditions coupled with the NRC performance requirements will be protective of human health and the environment. Our comfort derives from having designed a waste management scheme with multiple redundant systems and conditions that will limit contaminant movement. These include waste treatment, waster form, containers, cover performance, monitoring, and site-specific public participation. We believe that we have addressed all major technical aspects and waste management contingencies in making our decision on the comparability of the two regulatory programs.

Our responses to major comments on specific technical issues are presented in the following sections.

1. Synergistic Effects

Commenters indicated that the radioactive portion of the waste could negatively influence the nature and mobility of the hazardous portion of the waste and similarly the hazardous portion could possibly enhance the mobility of the radioactive constituents. Commenters also raised concerns regarding potential toxicological interaction between the hazardous and radioactive fractions in mixed waste. Interaction between radioactive and hazardous waste components that enhance the mobility or toxicity of constituents is referred to as ''synergy.'' The agency acknowledges that interaction between the waste components may be possible. There is not an adequate scientific understanding of such processes (e.g., synergy and cumulative interactions) that would allow EPA to design additional, and appropriate, management standards, if needed. In addition, the current regulatory schemes do not explicitly account for such effects. Our redundant control systems would make the possibility of such effects remote and go beyond current management practices. From a practical perspective, we concluded that the synergistic effects between radioactive and hazardous constituents would be minimal due to treatment requirements minimizing the hazardous constituents, waste form requirements, container conditions of the waste minimizing radioactive and hazardous interaction, and cover requirements resulting in the lack of liquid to generate leachate. Indeed, the container condition will enhance protectiveness over the current scheme, under which LLMW could interact more readily in a landfill with other radioactive or hazardous wastes.

2. Groundwater Monitoring

Today's final rule does not require LLRWDFs that accept LLMW under the provisions of today's transportation and disposal exemption to conduct groundwater monitoring for chemical constituents. These facilities already are required to conduct groundwater monitoring for radioactive material and other indicators which include selected hazardous constituents. We believe that this monitoring will provide adequate warning if there is a breach of the containment systems at the disposal facility.

A significant number of commenters agreed with the Agency's approach to not require groundwater monitoring for the RCRA constituents as one of the conditions of the disposal exemption because they believed the current NRC and Agreement provisions adequately address the monitoring needs for disposal sites. One commenter pointed out that the Agreement States have the authority to require groundwater monitoring for non-radiological constituents in the license for hazardous constituents under NRC regulations. This commenter noted that additional monitoring (if needed) can be best established as part of the site license condition with the Agreement State and be tailored to the local environmental conditions and the nature of the waste being accepted for disposal. EPA's analysis supports this contention. All three existing LLRWDFs licensed by the Agreement States have groundwater monitoring for RCRA hazardous constituents in their licenses. We believe this data will supplement the groundwater monitoring data of the radioactive constituents in providing the necessary warning sign when there may be a breach of containment at the disposal facility. Further, we found no evidence to suggest that these facilities have ground water contamination above regulatory levels for hazardous constituents as a result of disposal unit design problems or management.

In the proposed rule we specifically asked if commenters knew of reasons why we should include groundwater monitoring requirements for RCRA hazardous constituents as part of the conditional exemption. Some commenters believed that we had not adequately supported our assumption that controlling radionuclides will also adequately control hazardous constituents, because hazardous constituents may be more mobile than radionuclides. One commenter added that monitoring requirements should be based on the contents of the disposal cells; that is, if there are hazardous constituents in the disposal cell, they should be included on the list of analytes to be monitored.

The concerns expressed by these comments are addressed first and foremost by the preconditions established in today's rule for the exempted wastes. Specifically, the LLMW will be treated. Organics will be destroyed and metals will be immobilized through meeting the LDR standards. There will be no free liquid. The waste will then be containerized, at a minimum in carbon steel drums, prior to being placed in the disposal environment. Stable Class-A waste that is mixed with more active Class-B or C waste will meet the NRC requirement of high integrity containers (HICs) (e.g., concrete casks). This system of controls should preclude both transport alluded to by the commenter (e.g., organic solvents either moving faster than other constituents or promoting transport of inorganic constituents) and uncontrolled leaching of inorganic constituents (e.g., the inorganic constituents will be immobilized and unavailable for leaching, if not already destroyed by thermal treatment, and will be contained).

Although we believe the likelihood of hazardous constituent releases is minimal for the reasons presented above, we still believe that ground water monitoring is a prudent safeguard. The NRC/Agreement States already require LLRWDFs to conduct groundwater monitoring for radionuclides and other indicators (including selected hazardous constituents) using traditional analytical methods. The NRC/Agreement States ensure that the monitoring protocols established by the LLRWDFs are based on the wastes and constituents disposed of in the facility. Therefore, the list of analytes will include indicator constituents that are representative of the materials in the facility. In general, the migration of metals, whether as hazardous constituents or radioactive, will migrate in a similar way. We note that the detection of an indicator radioisotope (e.g., Cr-51, Cu-64, Pb-201, Se-75, Tl-201, or Zn-63) would also serve as an indicator of migration of the chemical portion of the waste. For example, if mixed waste contains hazardous chromium and radioactive CR–51 and groundwater monitoring detects CR–51, it would be reasonable to expect that hazardous chromium is also present in groundwater. As noted above, the three operating LLRWDFs monitor for RCRA constituents, including metals and some of the more mobile organic constituents (e.g., benzene, xylene). In conclusion, we are satisfied that the NRC ground water monitoring program will provide adequate protections for the exempted wastes managed under today's rule.

3. Site-Specific Variance

The Agency solicited comment on the use of a ''site-specific, risk-based variance'' approach to determine the waste disposal eligibility. We proposed this alternative to the conditional exemption based on States' interest to factor in site properties into the risk determination. In addition to the site-specific approach, the Agency also solicited comment on the need for guidance in support of performing site-specific risk assessments. Today's final rule regarding the ''conditional exemption'' for disposal does not include the site-specific, risk-based variance approach as an alternative method for exemption. The

requirements identified in the final rule and the existing NRC and Agreement State regulations, guidance, and licences were deemed to be adequate and protective for the management of these wastes.

We received more than forty comments on the use of site-specific, risk-based variances for the determination of waste disposal acceptability. The comments represented a wide disparity of positions. Many comments from States supported the use of the site-specific risk-based alternative to the conditional exemption. The commenters expressed the concern that efforts outside of site-specific modeling would not properly reflect the conditions at a specific site, either by overestimating or underestimating disposal performance. The commenters argued that using a national approach would tend to average site conditions and not truly represent any specific site resulting in uncertainty around the conclusion regarding the qualifications of natural and engineered site conditions.

A set of industry comments did not support the use of site-specific, risk-based analysis, in lieu of the conditional exemption. Their position was that the conditional exemption was technically sound and was instantly available, whereas the site-specific alternative would take time to perform and delay decisionmaking.

One environmental commenter opposed the use of site-specific, risk-based analysis completely on the grounds that the state of the science was not appropriate and too much uncertainty surrounded this type of analysis.

We have decided not to include the site-specific, risk-based alternative in the final rule. We concluded that the disposal of LLMW in LLRWDFs would be protective and be properly managed based on the benefits derived from siting, LDR treatment and waste form requirements, and the protection afforded by LLRWDFs licensed pursuant to 10 CFR part 61. Our review of NRC regulations, guidance, and licenses indicated that disposal facilities provide adequate protection for the disposal of LLMW so long as the additional conditions and requirements of this rule are met. In summary, the approach adopted in this rule will ensure that any potential risks that arise as a consequence of site-specific circumstances will be thoroughly reviewed and mitigated through the NRC licensing process.

H. Why Is Financial Assurance Beyond 10 CFR Part 61 Not Necessary?

You are not required to provide additional financial assurance beyond what NRC requires under 10 CFR part 61 or an NRC Agreement State requires under the state equivalent regulations. This decision is based on our review and comparison of EPA and NRC financial assurance regulations. (See comparison document, Ref. 18.) Both EPA and NRC financial assurance regulations require a disposal facility to provide sufficient funding to enable a third-party to conduct closure and post-closure care activities. Financial assurance for closure and post-closure activities are the key elements of financial assurance requirements under both EPA and NRC regulations. Based on our comparison and analysis of EPA and NRC financial assurance regulations, we have determined that the financial assurance provided by the NRC regulations will ensure that sufficient funds will be available to conduct the similar closure and post-closure care activities at a LLRWDF as required under RCRA. We note that there are variations between EPA and NRC financial assurance requirements. However, we conclude that as a whole, the NRC financial assurance requirements for the LLRWDF are adequately protective, making additional EPA financial assurance requirements for a LLRWDF unnecessary.

Similar to the financial assurance requirements set out under 40 CFR part 264 subpart H for a RCRA hazardous waste disposal facility, 10 CFR part 61 requires a LLRWDF to establish financial assurance that will provide funding for activities such as decommissioning and closure of the facility, cover placement over the disposal unit, post-closure care, and monitoring. NRC and NRC Agreement States do not issue licenses to facilities that cannot obtain financial assurance and these regulatory authorities will revoke licenses from facilities that cannot maintain adequate coverage.

For post-closure care, the NRC and NRC Agreement States require the LLRWDFs to provide financial assurance for an initial monitoring period of five years (or longer if deemed necessary by the regulatory authority) followed by a period of institutional control. At the completion of the five-year (or longer) initial post-closure monitoring period, the license of the LLRWDF is transferred from the disposal facility operator to the State or other Federal Agency who is the property owner. At that time, the next phase of the post-closure care period begins. This second phase of the post-closure care period is the institutional control period. The activities conducted under the institutional control period include monitoring, maintenance of cover, and access control. The NRC or NRC Agreement States also require that the LLRWDF licensees' financial assurance include all the costs associated with the institutional control phase of the post-closure care period. Specifically, prior to the issuance of the license, the applicant needs to provide for NRC review and approval, a copy of a binding arrangement between the applicant and the disposal site owner that ensures that sufficient funds will be available to cover the costs of monitoring and any required maintenance during the institutional control period. (See 10 CFR part 61.) The NRC or NRC Agreement State reviews this arrangement periodically to ensure that changes in inflation, technology, and disposal facility operations are reflected in the arrangements. Thus, the responsibility for funding the institutional control period belongs to the licensee and is assured prior to the issuance of the license and subsequent transfer of the license to the State or Federal Agency for institutional control of the LLRWDF. The institutional control period may last up to 100 years thus providing financial assurance for a considerably long period of time. In comparison, EPA requires RCRA land disposal facilities to provide for 30 years of post-closure monitoring unless the permitting authority modifies the monitoring period.

Although we determined that the EPA and NRC financial assurance requirements are not identical under a requirement-by-requirement comparison, we believe that the overall NRC financial assurance requirements are adequately protective of human health and the environment for a LLRWDF receiving the exempted waste. However, we requested public comment on whether we should require LLRWDFs to provide additional RCRA financial assurance as part of the conditional exemption.

Some commenters supported our proposal of not imposing the RCRA financial assurance requirement for LLRWDFs, because they believed adequate financial assurance exists under NRC regulations. Some of these commenters noted that further financial assurance requirements could discourage LLRWDFs from accepting the exempted wastes. Other commenters believed that it is necessary to impose the additional RCRA financial assurance requirement on a disposal facility

receiving the exempted waste to address the chemical constituents that will be disposed of there.

As discussed above, our analysis showed that the NRC or NRC Agreement State provisions for financial assurance will ensure that sufficient funds will be available to conduct closure and post-closure care activities which are the key elements of RCRA financial assurance requirements. We do not expect the cost for closure activities such as cover placement and post-closure maintenance activities, at a LLRWDF receiving the exempted waste to differ from the cost for the same activities at the same LLRWDF if it did not receive the exempted waste. Because NRC regulations already require financial assurance for closure and post-closure activities, additional funding requirements for the same activities would be redundant.

We also believe that the NRC financial assurance requirement for decommissioning activities is adequate for a LLRWDF that accepted the exempted waste. We note that NRC guidance has a provision that requires cost estimates for decommissioning to include the management of mixed waste (which includes the RCRA chemical constituents) during the decommissioning process. (See ''NMSS Decommissioning Standard Review Plan [NUREG/SR–1727]''.) Therefore, we believe that the NRC financial assurance requirement is adequate, and we do not need to require additional RCRA financial assurance requirements.

IX. Regulatory Impacts

We anticipate that implementation of this rule will result in positive net benefits, resulting from cost savings and risk reductions. We have based our assessment on the best data available; full references and details are available in the Regulatory Impact Analysis which accompanies today's rule. (See Ref. 14.)

The primary benefit of this rule is in facilitating treatment and disposal of mixed wastes, by addressing problems caused by dual regulation of these wastes. We estimate quantified net benefits of this rule to range between $4.1 million and $5.9 million per year. Sections A and B below provide further detail on benefits and costs associated with this rule; Section C addresses economic impacts. We base assessment of benefits and costs on a comparison of waste management after implementation of this final rule compared with waste management in the absence of this rule.

Significant uncertainties make it unusually difficult to estimate the impacts of this rulemaking. In addition to uncertainties about the quantities of LLMW generated in the U.S. there are also questions about the eventual disposition of these wastes. Although this rulemaking creates opportunities for disposal of much of this waste, these opportunities also depend on as-yet undetermined action by State regulatory agencies, low-level radioactive waste disposal facilities, and the generators themselves. These uncertainties and assumptions, however, do not affect the Agency's projection of positive net benefits stemming from this rule; they only affect the magnitude of that net benefit. To the extent that any generators can take advantage of storage or disposal provisions of this proposal, net benefits will accrue.

A. What Are the Regulatory Benefits of This Rule?

The storage component of the rule provides the most significant benefits of this rule, from administrative cost savings and from allowing certain mixed wastes to decay-in-storage. Dollar savings from the disposal portion of this rulemaking are likely to be low, even more so if the LLRWDFs (especially Envirocare) do not accept the exempted waste for disposal as LLRW. To estimate the impact of the rule, EPA first needed to characterize generation and management of low-level waste and low-level mixed waste in the nation.

In 1990, EPA, NRC and the Oak Ridge National Laboratory conducted a survey of commercially generated low-level mixed waste. A report of the survey findings was published in 1992 under the title National Profile on Commercially Generated Low-Level Radioactive Mixed Waste. (See Ref. 8.) As stated in the Executive Summary, ''The * * * objective of the work was to compile a national profile on the volumes, characteristics, and treatability of commercially generated low-level mixed waste * * * by major facility categories * * * [including] academic, industrial, medical, and * * * government facilities and nuclear utilities.''

''The industrial category was estimated to be the largest generator and accumulator of mixed waste, with more than 36% of the generation * * * of the total mixed waste in the United States in 1990.'' (Ref. 8, National Profile, p. 40). Nuclear utilities accounted for roughly 10 percent of the total commercially generated LLMW volume in the United States.

Based on our discussions with the regulated community, we understand that commercial generators of LLMW have taken a number of steps, including pollution prevention, waste minimization, and source reduction (such as using water-based scintillation cocktails as opposed to the solvent-based formulations), to reduce quantities of LLMW they generate. Also, nuclear power plants have instituted steps for controlling the use of organic solvents (for example, establishing procedures to track quantities of organic solvents purchased, used, and left over and discarded). Therefore, despite industrial growth over the intervening years, we believe that the LLMW volumes generated today may be similar to those reported in 1992.

Based on this research and site visits in 1998, we believe that there are a number of LLMW generators, who could benefit from this rulemaking. Using the National Profile we estimated that the national generation rate of mixed waste was 108,000 cubic feet per year. (See Regulatory Impact Analysis, Ref. 14, and Regulatory Impact Analysis, Background Documents, Ref. 17.) Some federal facilities also generate LLMW. The total volume of LLMW generated annually by DOE facilities far exceeds the volume generated by the commercial sector.

Benefits from this rule may accrue in the following areas.

- Permitting cost savings. Those generators needing RCRA permits only for storage or treatment of their mixed wastes will save these permitting costs and associated corrective action costs. These cost savings are approximated at $2.7 million per year.
- Other administrative cost savings. Generators of mixed waste and Federal and State RCRA regulating agencies are expected to save approximately $700,000 in administrative burden and costs because of this rule.
- Decay-in-storage cost savings. The rule will allow facilities to store certain wastes while the radioactivity decays. These wastes can then be treated and disposed of as hazardous waste, which is less expensive than LLMW treatment and disposal. EPA estimates aggregate cost savings from these waste streams will be between $800,000 and $2.6 million per year.
- Other disposal cost savings. This rule will facilitate disposal of wastes in LLRWDFs, depending on approval by state regulatory agencies and the willingness of LLRWDFs to accept the wastes, as well as limitations of the low-level waste disposal compact system. These limitations mean that the savings from the disposal exemption are expected to be at most $100,000 per year. EPA has not estimated savings resulting from reduced storage costs.
- Risk Reductions. EPA anticipates that generators will take advantage of

this rule to allow certain LLMW to undergo decay-in-storage. NRC or the NRC Agreement State approves a decay-in-storage process which allows certain short-lived radionuclides in these wastes to decay to background levels. The remaining decayed waste no longer meets the definition of radioactive under the AEA. Since EPA does not expect these wastes to be treated or handled during the radioactive decay process, waste handlers in treatment and transportation will not be exposed to this radioactivity. Generators who comply with existing RCRA regulations are handling this waste while still radioactive. This decrease in exposure translates to an unquantified risk reduction, attributable to the relaxed RCRA storage restrictions in this rule.

DOE may also save on transportation and disposal costs, to the extent that it chooses to meet the conditions for exemption and dispose of wastes in commercial disposal facilities licensed by NRC or an NRC Agreement State. DOE would not gain permitting or storage cost savings, since the storage and treatment conditional exemption regulations in this rule do not apply to DOE facilities.

B. What Are the Costs of This Rule?

Generators taking advantage of storage or disposal exemptions will incur costs to meet notification conditions. EPA estimates these costs to be approximately $200,000 per year, in the aggregate.

Under this rule, there will also be some increased costs to EPA and RCRA authorized States overseeing management of mixed wastes. We expect these entities to incur costs associated with notification conditions for generators and treaters of exempted LLMW sending their waste for disposal at LLRWDFs and related implementation costs. This will result in a small increase in costs for these regulating bureaus estimated at $5,000 per year, in the aggregate.

C. What Are the Economic Impacts of This Rule?

Economic impacts of this rulemaking are expected to be minimal. Generators who are not meeting regulatory requirements for disposal will incur spending for treatment and disposal of wastes that previously had been stranded in storage. These costs are expected to total about $300,000 in aggregate across the nation. These are not true social costs, though, since these generators are already liable for costs of treatment and disposal of these wastes. The effect of this rule will be to open up disposal capacity for these wastes which currently do not meet the waste acceptance criteria of the existing LLMW disposal facility. Without this rulemaking, these legacy wastes might simply continue to be stored on-site indefinitely, leaving the generators in violation of RCRA requirements. These generators would incur not only storage costs, but social costs associated with being in violation of RCRA.

By allowing LLMW to be disposed of as LLW, this rule may have impacts on the national market for disposal of LLW, although we have not specifically modeled these impacts. The larger the volume to be added to the disposal market, the greater the effects are likely to be. The largest volumes of LLW potentially to be disposed of at commercial LLRWDFs are those generated by the Department of Energy, including wastes from site cleanup and remediation activities. Wastes from commercial LLMW alone are not likely to have any significant impact on these markets.

The only possible negative impact may fall upon the single mixed waste disposal facility which currently accepts some LLMW for disposal. By allowing LLRWDFs to dispose of the LLMW that meets Land Disposal Restrictions, this rule may introduce some competition into the market for disposal of LLMW.

X. State Authorization

As of December 2000, a total of 43 states and one territory were authorized to implement RCRA mixed waste regulations of 1986 (51 FR 24504), which provide for the hazardous components of mixed waste to be managed under RCRA Subtitle C.[1] Today's rule will apply to the hazardous component of mixed waste in a State that has mixed waste authorization, but only when the State amends its State law and becomes authorized to implement this final rule containing a new conditional exemption. The effective date will be the date the State is authorized for this final rule. This rulemaking affects the RCRA base program implementing the Resource Conservation and Recovery Act of 1976. Therefore, authorization for this rule is not automatic, but depends upon State action. In addition, since the flexibility provided by a conditional exemption for disposal and permitting is considered less stringent than the current RCRA program, States are not required to adopt this final rule. When choosing to adopt this rule, States have the option of being more stringent than a federal requirement where they deem it appropriate. (See 40 CFR 271.1(i).)

In Alaska, Hawaii, Iowa, Puerto Rico, and the Virgin Islands, which are jurisdictions not authorized to implement any part of the RCRA program, the federal government implements the RCRA program. In these jurisdictions, this final rule will become effective 180 days after the date of publication of this rule.

We encourage States and territories to adopt this conditional exemption. The conditional exemption does not preclude regulation or enforcement by States against generators who are not eligible for the exemption or who do not meet the conditions or requirements of the exemption. Under this regulatory framework, States retain their regulatory oversight and RCRA enforceability provisions over a noncompliant claimant. The flexibility provided by this rule is conditional. A LLMW generator must meet the eligibility provisions and conditions to qualify for and maintain the exemption from hazardous waste storage and disposal regulations. Failure to meet the conditions results in automatic loss of the exemption; failure to meet the requirements may result in fines and penalties under the RCRA hazardous waste enforcement program. In addition, since the transportation and disposal exemption may involve interstate transportation of conditionally exempt waste, the exemption must be authorized in both the State of the generator and the State where the disposal site is located.

Note: If the waste is transported through a State which considers the waste to be hazardous, the transporter must be in compliance with 40 CFR part 263, including manifest provisions. EPA recommends that the initiating facility note that the waste is subject to today's exemption in block 15 of the manifest.

XI. Relationship With Other RCRA and Environmental Programs

A. What Is the Relationship of Today's Rule With Other RCRA Regulatory Programs?

1. Does This Rule Change How You Determine if a Waste Is Hazardous?

No, the hazardous waste determination remains unchanged. This rule is a conditional exemption from the RCRA regulatory definition of hazardous waste. Under current RCRA regulations, if you generate a solid waste, you must determine if it is a

[1] The District of Columbia, Massachusetts, Maryland, Rhode Island and West Virginia are RCRA authorized States that have adopted mixed waste regulations under State law but have not yet been authorized to implement the mixed waste regulations. This rule will become effective in these jurisdictions when the State adopts and is authorized for the final rule.

hazardous waste as outlined in 40 CFR 262.11, Hazardous Waste Determination. A generator of LLMW must also determine if the waste is excluded from regulation under 40 CFR 261.4, Exclusions. Next, a generator must determine whether the waste meets the regulatory description for a listed hazardous waste in subpart D of part 261, Lists of Hazardous Wastes. If the waste is not a listed hazardous waste, the generator must then determine if the waste exhibits a characteristic defined in subpart C of part 261.

2. Can LLMW or Eligible NARM Be a Non-Hazardous Waste Under This Rule?

LLMW, or Eligible NARM, meeting the eligibility criteria and all the conditions under the storage and treatment or transportation and disposal conditional exemption, will be conditionally exempt from the regulatory definition of hazardous waste under RCRA Subtitle C, and therefore managed as non-hazardous waste under this rule.

3. How does the LLMW conditional exemption differ from delisting under 40 CFR 260.22?

The evaluation criteria used for delisting differ from today's rule. In the conditional exemption, the evaluation criteria are national and categorical. This contrasts with the evaluation criteria for delisting, which are based upon a designated waste stream and are case specific. In delisting, we evaluate the processes generating a specific waste stream to determine the constituents likely to be present, as well as the potential variability in the waste. In addition, conditionally exempt LLMW must be managed in accordance with applicable NRC regulations. Delisted waste is generally managed as an industrial solid waste.

4. Will My Waste Analysis Plan of My RCRA-Permitted TSDF Change?

No, your waste analysis plan will not change. If you are a generator or an owner or an operator of a RCRA-permitted or interim status TSDF, also licensed by the NRC for managing LLW, and plan to claim a conditional exemption, you remain subject to the waste analysis and waste analysis plan requirements of 40 CFR part 268. If you treat to Land Disposal Restriction standards, you must have a waste analysis plan. This includes DOE treatment facilities treating LLMW to meet the conditions for the disposal exemption.

5. Will the Final Rule Change How the RCRA Closure Requirements Apply to My Disposal Facility?

If you have a disposal facility subject to NRC or NRC Agreement State regulations for disposal of LLW, and you accept conditionally exempt waste under this rule, the hazardous waste facility closure requirements do not apply to any units at your facility receiving only conditionally exempt LLMW.

6. How Does the Conditional Exemption Relate to RCRA Air Emission Standards?

RCRA Air Emission Standards do not apply to a LLRWDF where conditionally exempt LLMW or Eligible NARM waste has been disposed of.

B. What Is the Relationship of This Rule to Other Environmental Programs?

1. How Are CERCLA Actions Affected by Today's Rule?

The affect of today's rule on Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) actions depends on whether the waste will be managed on or off the CERCLA site. Off-site disposal of CERCLA remediation waste must comply with all conditions of today's final rule for a generator to take advantage of the exemption provided, including that the waste must be disposed of at a LLRWDF that is licensed by the NRC or an NRC Agreement State, and is in compliance with the 10 CFR part 61 or equivalent State regulations. Off-site rule requirements in 40 CFR part 300 continue to apply to CERCLA remediation wastes.

Mixed waste managed during on-site waste remediation must meet all applicable or relevant and appropriate requirements of Federal or State environmental laws or justify a waiver from those standards. This rule requires that the disposal facility be licensed and overseen by the NRC or NRC Agreement State. On-site CERCLA response action must comply with the substantive provisions of environmental regulations and standards, but not the administrative provisions. Therefore, no permit or license is required for on-site activities. In accordance with the National Contingency Plan and CERCLA, today's regulation is not expected to be an applicable requirement at most CERCLA sites managing LLMW. However, relevant and appropriate determinations are site-specific and these may or may not be deemed relevant and appropriate given site-specific conditions. In general, we expect that most CERCLA sites will meet both the substantive provisions of the RCRA Subtitle C landfill requirements as well as the 10 CFR part 61 requirements for a LLRWDF.

2. How Might Clean Air Act Regulations Be Affected?

This rule will not affect Clean Air Act regulations. LDR treatment of LLMW or Eligible NARM remains subject to the air emission standards applicable to hazardous waste treatments under RCRA.

3. How Might Clean Water Act Regulations Be Affected?

This rule will not affect Clean Water Act regulations.

XII. Effective Date November 13, 2001

XIII. Regulatory Assessment Requirements

A. Executive Order 12866: Determination of Significance

Under Executive Order (E.O.) 12866, (58 FR 51,735 October 4, 1993) EPA must determine whether the regulatory action is ''significant,'' and therefore, subject to OMB review and the requirements of the Executive Order The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

- Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order

Under the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action'' because it raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order This rule addresses problems caused by dual regulation of mixed wastes, and facilitates treatment and disposal of mixed wastes. We estimate quantified net benefits of this rule to range between $4.1 million and $5.9 million per year. As a significant regulatory action this rule was submitted to OMB for review. Changes made in response to OMB

suggestions or recommendations will be documented in the public record.

Under the terms of Executive Order 12866, EPA must prepare for any significant regulatory action an assessment of the action's potential costs and benefits. If that action satisfies the first of the criteria listed above, this assessment must include, to the extent feasible, a quantification of these costs and benefits, the underlying analyses supporting such quantification, and an assessment of the costs and benefits of reasonably feasible alternatives to the planned regulation. This final rule is not economically significant, although it is expected to yield net benefits to society because of reduced waste management and administrative costs for both generators of mixed waste and regulatory agencies, and reduced worker exposures. A summary description of costs and benefits associated with this final rule appears in section IX of this preamble. A regulatory impact analysis has been prepared and is available in the docket for today's final rulemaking.

B. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132, because the rule will not impose any requirements on States or any other level of government. As explained above, today's final rule may provide regulatory flexibility for generators and treaters of LLMW by establishing a conditional exemption from RCRA Subtitle C requirements, which States are not required to adopt. Thus, the requirements of the Executive Order do not apply to this rule.

C. Executive Order 12898: Environmental Justice

Under Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations' as well as through EPA's April 1995, ''Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report'' and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population—regardless of race, color, national origin, or income—bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities.

To address this goal, EPA considered the impacts of this rule on low-income populations and minority populations. This waste would be stored according to other regulatory authorities (NRC or NRC Agreement States) which offer comparable protection to RCRA Subtitle C. We evaluated the demographics of the areas surrounding the three existing commercial low-level radioactive waste disposal facilities. We did not find disproportionate populations of minority groups residing in the surrounding area. Most importantly, we do not expect adverse environmental impact as a result of the disposal rule. The RCRA exempted waste will have been treated, for example, to destroy hazardous organic constituents and stabilize toxic metals. The waste would then be placed in a container, managed, and disposed of, in an environmentally sound manner according to NRC or NRC Agreement State equivalent regulations for disposal of low-level radioactive waste. Therefore, we believe there will not be disproportionately high and adverse environmental or economic impacts on any minority or low-income group, or on any community.

D. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

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

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental or health and safety risks addressed by this action present a disproportionate risk to children. We find that waste management under NRC regulations for radioactive waste could diminish (not increase) concerns regarding environmental health or safety risks for all, including children.

E. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

On November 6, 2000, the President issued Executive Order 13175 (65 FR 67249) entitled, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 took effect on January 6, 2001, and revoked Executive Order 13084 (Tribal Consultation) as of that date. EPA developed this final rule, however, during the period when Executive Order 13084 was in effect; thus, EPA addressed tribal considerations under Executive Order 13084. Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. This Executive Order requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process that permits elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Prior to the publication of the November 1999 proposal, we briefed two organizations with an interest in tribal environmental issues on both the storage and disposal exemptions we

were proposing. The organizations were the American Indian Environmental Office, and the executive director and staff of the Tribal Association of Solid Waste and Emergency Response (TASWER). TASWER staff indicated that there was an annual tribal conference the following week and the representatives of tribes in attendance would be informed about our proposed rule and encouraged to comment. None of the comments received were identified by the sender as representing tribes. Based on the discussion at our meetings with tribal organizations, we do not expect this rule to significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of Section 3(b) of Executive Order 13084 do not apply to this rule.

F. The Regulatory Flexibility Act (RFA) as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (5 U.S.C. 601 et seq.)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards established for industries as described in the North American Industry Classification System (see *http://www.sba.gov/size/NAICS-cover-page.html*); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' (5 U.S.C. 603 and 604.) Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

The overall economic effect of this regulation has been determined to be a net savings to all regulated entities that choose to avail themselves of a conditional exemption for storage or disposal of the mixed wastes they generate. This rule will not impose additional costs on any entities. We have therefore concluded that today's final rule will relieve regulatory burden for all small entities.

G. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of sec. 205 do not apply when they are inconsistent with applicable law. Moreover, sec. 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector because it imposes no enforceable duty on any State, local, or tribal governments or the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of UMRA.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113 Section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, with explanations when the Agency decides not to use available and applicable voluntary consensus standards. This final rule does not involve technical standards. In 1997, EPA and NRC published in the **Federal Register** joint testing guidance for sampling and testing of mixed waste. Facilities subject to this rule may continue to use that guidance, which allows analysis of smaller samples and reduces exposure of workers to radiation hazards.

I. Paperwork Reduction Act

Under the implementing regulations for the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), an agency is required to certify that any agency-sponsored collection of information from the public is necessary for the proper performance of its functions, has practical utility, does not unnecessarily duplicate information otherwise reasonably accessible to the agency, and reduces to the extent practicable and appropriate the burden on those required to provide the information. (5 CFR 1320.9.) Any proposed collection of information must be submitted, along with this certification, to the Office of Management and Budget (OMB) for approval before the collection of information goes into effect.

The information collection requirements in this final rule have been submitted for approval to OMB under the Paperwork Reduction Act. An

Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1922.01), and a copy may be obtained from Sandy Farmer, Office of Environmental Information, Collection Strategies Division, U.S. Environmental Protection Agency (2137), 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 260–2740.

This information collection is required to provide documentation of conditional exemption from RCRA Subtitle C requirements. The exemptions from RCRA Subtitle C under today's action would require no government approval before being effective. For this final rule, information collection, maintenance, and reporting issues are especially important. Successful implementation of today's rule will depend upon the documentation, certification, and verification provided by the information collection.

The general authority for this rule is 1006, 2002(a), 3001–3009 and 3013 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), and the Hazardous and Solid Waste Amendments of 1984 (HSWA), and the Federal Facility Compliance Act of 1992 (FFCA), 42 U.S.C. 6905, 6912(a), 6921–6929 and 6934. To the extent that this rule imposes any information collection requirements under existing RCRA regulations promulgated in previous rulemakings, those requirements have been approved by OMB under the Paperwork Reduction Act, and have been assigned one of the following OMB control numbers: 2050–0009 (ICR no. 1573, Part B Permit Application, Permit Modifications, and Special Permits); 2050–0120 (ICR 1571, General Facility Hazardous Waste Standards); 2050–0028 (ICR 261, Notification of Hazardous Waste Activity); 2050–0034 (ICR 262, RCRA Hazardous Waste Permit Application and Modification, Part A); 2050–0039 (ICR 801, Requirements for Generators, Transporters, and Waste Management Facilities under the Hazardous Waste Manifest System); 2050–0035 (ICR 820, Hazardous Waste Generator Standards); and 2050–0024 (ICR 976, 1997 Hazardous Waste Report).

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR parts 9 and 48 CFR chapter 15. This rule includes new information collection requirements subject to OMB review under the Paperwork Reduction Act. To be eligible for a conditional exemption for stored low-level mixed waste, facilities must notify EPA or the RCRA Authorized State of their claims for a conditional exemption for their LLMW and storage units. If they do not choose to claim a conditional exemption, generators will have to comply with the existing Subtitle C recordkeeping requirements for the low-level mixed wastes they generate.

This rule also includes notification requirements for generators or treaters of LLMW and Eligible NARM seeking a conditional exemption from the definition of hazardous waste, which would allow disposal of the waste meeting the conditions for exemption in a low-level radioactive waste disposal facility licensed by NRC or an NRC Agreement State. If the generator or treater of LLMW chooses not to claim an exemption, it remains subject to the existing hazardous waste disposal requirements.

Some of the requirements contained in today's final action entail new reporting and recordkeeping requirements for members of the regulated public, if an exemption is claimed. The requirements have practical utility in that they are necessary to ensure that the disposal of conditionally exempted low-level mixed waste is safely managed. If generators choose to avail themselves of the regulatory flexibility discussed in this final rule, they will be subject to the notification and recordkeeping requirements described above. However, such notification and recordkeeping would replace the paperwork burden required for treatment and storage permits for their low-level mixed wastes if they did not claim a conditional exemption. States (but not Tribes) would have additional recordkeeping requirements for receiving a generator's notice to claim a conditional exemption, and for reviewing a generator's notice to reclaim a conditional exemption.

We have prepared a full ICR in support of today's final rule. We estimate the total annual public burden associated with the storage and treatment conditional exemption to average 3.5 hours per respondent. We estimate the reporting burden to average 1.9 hours per respondent annually, including time for reading the regulations, and preparing and submitting notifications. We estimate the recordkeeping burden to average 1.6 hours per respondent annually, including the time for recording the results of inventories and inspections, and maintaining records pertaining to the mixed waste exemption.

The total public burden associated with the transportation and disposal exemption is estimated to average 3.9 hours per respondent. We estimate the reporting burden to average 2.9 hours per respondent annually, including time for reading the regulations, and preparing and submitting notifications. The annual recordkeeping burden is estimated to average 1.0 hours per respondent and includes the time for maintaining records pertaining to the mixed waste exemption.

Burden means the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide information to or for a Federal agency. Burden includes the time needed to:

- Review instructions;
- Develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information;
- Adjust the existing methods to comply with any previously applicable instructions and requirements;
- Train personnel to be able to respond to a collection of information;
- Search data sources;
- Complete and review the collection of information; and
- Transmit or otherwise disclose the information.

We received no public comment on the proposed information collection.

J. The Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective November 13, 2001.

XIV. Supporting Documents

1. EPA Consent Decree, HWIR Settlement Agreement, April 11, 1997.
2. EPA Side-bar letter to EEI/USWAG dated April 7, 1997.
3. ''Review of Waste Management Practices and Compliance History at Nuclear Power Plants and Other Entities that Generate Low-Level Mixed Waste.'' April 12, 1999.

4. ''Comparison of the EPA's RCRA Requirements and the NRC's Licensing Requirements for the Treatment (In Tanks and Containers) and Storage of Low-Level Mixed Wastes at Nuclear Facilities'', April 2001.
5. Comment Summary Document—Approach to Reinventing Regulations of Storing Mixed Low-Level Radioactive Waste; Advance Notice of Proposed Rulemaking (ANPRM), September 21,1999.
6. Report to Utility Solid Waste Activities Group and Utility Nuclear Waste Management Group on Comparative Assessment of the Environmental Protection Agency's Regulations for Hazardous Waste Tank Systems (40 CFR part 265, subpart J) and Comparable Nuclear Regulatory Commission Requirements, July 1988.
7. Technical Evaluation on Document for the Disposal of Mixed Waste at Low-Level Radioactive Waste Disposal Facilities, Draft Technical Background Document, July 1999.
8. National Profile on Commercially Generated Low-Level Radioactive Mixed Waste, NUREG/CR–5938, December 1992.
9. Meeting Notes for EPA Meeting with Low-Level Radioactive Waste Disposal Facilities, December 7, 1998.
10. RCRA Hazardous Constituents and Waste Codes Associated with Mixed Waste, December 1997.
11. Joint State/EPA Workshop on Mixed Waste Rulemaking, October 7–9, 1998, Meeting Summary.
12. Comparison of NRC and EPA's Waste Tracking and Related Record Keeping Requirements, July 1999.
13. Technical Alternatives Considered for Evaluating Protectiveness of Low-Level Waste Disposal Facilities, July 21, 1999.
14. Regulatory Impact Analysis: Storage, Treatment, Transportation, and Disposal of Mixed Waste, February 2001.
15. Summary of Public Comments on ''Contingent Management of Mixed Waste'' Submitted in Response to the 1995 HWIR Proposal, July 1999.
16. The Management of Mixed Low-Level Radioactive Waste in the Nuclear Power Industry, NUMARC/NESP–006, Nuclear Management Resources Council, Inc., Washington, D.C., January 1990.
17. Regulatory Impact Analysis: Storage, Treatment, Transportation, and Disposal of Mixed Waste—Supplemental Documents, February 2001.
18. Comparison of Financial Assurance Requirements Under EPA and NRC Regulations, November, 2000.
19. Discussion with DOT on Mixed Waste Transportation on August 1999.
20. Letter from Elizabeth A. Cotsworth, Director, Office of Solid Waste, to J. Dale Givens, State of Louisiana, Department of Environmental Quality, March 27, 1998.

Note that this is a list of supporting documents for both the proposed and final rules. Reference documents numbered 5, 11, 13, and 15 were referred to in the proposed rule but not in the final rule.

List of Subjects in 40 CFR Part 266

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: April 30, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble 40 CFR part 266 is amended as follows:

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

1. The authority citation for part 266 is revised to read as follows:

Authority: 42 U.S.C. 1006, 2002(a), 3001–3009, 3014, 6905, 6906, 6912, 6921, 6922, 6924–6927, 6934, and 6937.

2. Part 266 is amended by adding subpart N to read as follows:

Subpart N—Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal

Terms

Sec.
266.210 What definitions apply to this subpart?

Storage and Treatment Conditional Exemption and Eligibility

266.220 What does a storage and treatment conditional exemption do?
266.225 What wastes are eligible for the storage and treatment conditional exemption?
266.230 What conditions must you meet for your LLMW to qualify for and maintain a storage and treatment exemption?

Treatment

266.235 What waste treatment does the storage and treatment conditional exemption allow?

Loss of Conditional Exemption

266.240 How could you lose the conditional exemption for your LLMW and what action must you take?
266.245 If you lose the storage and treatment conditional exemption for your LLMW, can the exemption be reclaimed?

RecordKeeping

266.250 What records must you keep at your facility and for how long?

Reentry Into RCRA

266.255 When is your low-level mixed waste no longer eligible for the storage conditional exemption?

Storage Unit Closure

266.260 Do closure requirements apply to units that stored LLMW prior to the effective date of subpart N?

Transportation and Disposal Conditional Exemption

266.305 What does the transportation and disposal conditional exemption do?

Eligibility

266.310 What wastes are eligible for the transportation and disposal conditional exemption?

Conditions

266.315 What are the conditions you must meet for your waste to qualify for and maintain the transportation and disposal exemption?
266.320 What treatment standards must your eligible waste meet?
266.325 Are you subject to the manifest and transportation condition in § 266.315(b)?
266.330 When does the transportation and disposal exemption take effect?
266.335 Where must your exempted waste be disposed of?
266.340 What type of container must be used for disposal of exempted waste?

Notification

266.345 Whom must you notify?

Recordkeeping

266.350 What records must you keep at your facility and for how long?

Loss of Transportation and Disposal Conditional Exemption

266.355 How could you lose the transportation and disposal conditional exemption for your waste and what actions must you take?
266.360 If you lose the transportation and disposal conditional exemption for a waste, can the exemption be reclaimed?

Subpart N—Conditional Exemption for Low-Level Mixed Waste Storage and Disposal

Terms

§ 266.210 What definitions apply to this subpart?

This subpart uses the following special definitions:

Agreement State means a state that has entered into an agreement with the NRC under subsection 274b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), to assume responsibility for regulating within its borders byproduct, source, or special nuclear material in quantities not sufficient to form a critical mass.

Certified delivery means certified mail with return receipt requested, or equivalent courier service, or other means, that provides the sender with a receipt confirming delivery.

Director refers to the definition in 40 CFR 270.2.

Eligible Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM) is NARM that is eligible for the Transportation and Disposal Conditional Exemption. It is a

NARM waste that contains RCRA hazardous waste, meets the waste acceptance criteria of, and is allowed by State NARM regulations to be disposed of at a low-level radioactive waste disposal facility (LLRWDF) licensed in accordance with 10 CFR part 61 or NRC Agreement State equivalent regulations.

Exempted waste means a waste that meets the eligibility criteria in 266.225 and meets all of the conditions in § 266.230, or meets the eligibility criteria in 40 CFR 266.310 and complies with all the conditions in § 266.315. Such waste is conditionally exempted from the regulatory definition of hazardous waste described in 40 CFR 261.3.

Hazardous Waste means any material which is defined to be hazardous waste in accordance with 40 CFR 261.3, ''Definition of Hazardous Waste.''

Land Disposal Restriction (LDR) Treatment Standards means treatment standards, under 40 CFR part 268, that a RCRA hazardous waste must meet before it can be disposed of in a RCRA hazardous waste land disposal unit.

License means a license issued by the Nuclear Regulatory Commission, or NRC Agreement State, to users that manage radionuclides regulated by NRC, or NRC Agreement States, under authority of the Atomic Energy Act of 1954, as amended.

Low-Level Mixed Waste (LLMW) is a waste that contains both low-level radioactive waste and RCRA hazardous waste.

Low-Level Radioactive Waste (LLW) is a radioactive waste which contains source, special nuclear, or byproduct material, and which is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11e.(2) of the Atomic Energy Act. (See also NRC definition of ''waste'' at 10 CFR 61.2)

Mixed Waste means a waste that contains both RCRA hazardous waste and source, special nuclear, or byproduct material subject to the Atomic Energy Act of 1954, as amended.

Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM) means radioactive materials that:

(1) Are naturally occurring and are not source, special nuclear, or byproduct materials (as defined by the AEA) or

(2) Are produced by an accelerator. NARM is regulated by the States under State law, or by DOE (as authorized by the AEA) under DOE orders.

NRC means the U. S. Nuclear Regulatory Commission.

We or us within this subpart, means the Director as defined in 40 CFR 270.2.

You means a generator, treater, or other handler of low-level mixed waste or eligible NARM.

Storage and Treatment Conditional Exemption and Eligibility

§ 266.220 What does a storage and treatment conditional exemption do?

The storage and treatment conditional exemption exempts your low-level mixed waste from the regulatory definition of hazardous waste in 40 CFR 261.3 if your waste meets the eligibility criteria in § 266.225 and you meet the conditions in § 266.230.

§ 266.225 What wastes are eligible for the storage and treatment conditional exemption?

Low-level mixed waste (LLMW), defined in § 266.210, is eligible for this conditional exemption if it is generated and managed by you under a single NRC or NRC Agreement State license. (Mixed waste generated at a facility with a different license number and shipped to your facility for storage or treatment requires a permit and is ineligible for this exemption. In addition, NARM waste is ineligible this exemption.)

§ 266.230 What conditions must you meet for your LLMW to qualify for and maintain a storage and treatment exemption?

(a) For your LLMW to qualify for the exemption you must notify us in writing by certified delivery that you are claiming a conditional exemption for the LLMW stored on your facility. The dated notification must include your name, address, RCRA identification number, NRC or NRC Agreement State license number, the waste code(s) and storage unit(s) for which you are seeking an exemption, and a statement that you meet the conditions of this subpart. Your notification must be signed by your authorized representative who certifies that the information in the notification is true, accurate, and complete. You must notify us of your claim either within 90 days of the effective date of this rule in your State, or within 90 days of when a storage unit is first used to store conditionally exempt LLMW.

(b) To qualify for and maintain an exemption for your LLMW you must:

(1) Store your LLMW waste in tanks or containers in compliance with the requirements of your license that apply to the proper storage of low-level radioactive waste (not including those license requirements that relate solely to recordkeeping);

(2) Store your LLMW in tanks or containers in compliance with chemical compatibility requirements of a tank or container in 40 CFR 264.177, or 264.199 or 40 CFR 265.177, or 265.199;

(3) Certify that facility personnel who manage stored conditionally exempt LLMW are trained in a manner that ensures that the conditionally exempt waste is safely managed and includes training in chemical waste management and hazardous materials incidents response that meets the personnel training standards found in 40 CFR 265.16(a)(3);

(4) Conduct an inventory of your stored conditionally exempt LLMW at least annually and inspect it at least quarterly for compliance with subpart N of this part; and

(5) Maintain an accurate emergency plan and provide it to all local authorities who may have to respond to a fire, explosion, or release of hazardous waste or hazardous constituents. Your plan must describe emergency response arrangements with local authorities; describe evacuation plans; list the names, addresses, and telephone numbers of all facility personnel qualified to work with local authorities as emergency coordinators; and list emergency equipment.

Treatment

§ 266.235 What waste treatment does the storage and treatment conditional exemption allow?

You may treat your low-level mixed waste at your facility within a tank or container in accordance with the terms of your NRC or NRC Agreement State license. Treatment that cannot be done in a tank or container without a RCRA permit (such as incineration) is not allowed under this exemption.

Loss of Conditional Exemption

§ 266.240 How could you lose the conditional exemption for your LLMW and what action must you take?

(a) Your LLMW will automatically lose the storage and treatment conditional exemption if you fail to meet any of the conditions specified in § 266.230. When your LLMW loses the exemption, you must immediately manage that waste which failed the condition as RCRA hazardous waste, and the storage unit storing the LLMW immediately becomes subject to RCRA hazardous waste container and/or tank storage requirements.

(1) If you fail to meet any of the conditions specified in § 266.230 you must report to us and the NRC, or the oversight agency in the NRC Agreement State, in writing by certified delivery within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that

the information provided is true, accurate, and complete. This report must include:

(i) The specific condition(s) you failed to meet;

(ii) A description of the LLMW (including the waste name, hazardous waste codes and quantity) and storage location at the facility; and

(iii) The date(s) on which you failed to meet the condition(s).

(2) If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally within 24 hours and follow up with a written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers, or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, you must follow the provisions of your emergency plan.

(b) We may terminate your conditional exemption for your LLMW, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirement(s) of subpart N of this part.

§ 266.245 If you lose the storage and treatment conditional exemption for your LLMW, can the exemption be reclaimed?

(a) You may reclaim the storage and treatment exemption for your LLMW if:

(1) You again meet the conditions specified in § 266.230; and

(2) You send us a notice by certified delivery that you are reclaiming the exemption for your LLMW. Your notice must be signed by your authorized representative certifying that the information contained in your notice is true, complete, and accurate. In your notice you must do the following:

(i) Explain the circumstances of each failure.

(ii) Certify that you have corrected each failure that caused you to lose the exemption for your LLMW and that you again meet all the conditions as of the date you specify.

(iii) Describe plans that you have implemented, listing specific steps you have taken, to ensure the conditions will be met in the future.

(iv) Include any other information you want us to consider when we review your notice reclaiming the exemption.

(b) We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to, the following: you have failed to correct the problem; you explained the circumstances of the failure unsatisfactorily; or you failed to implement a plan with steps to prevent another failure to meet the conditions of § 266.230. In reviewing a reclaimed conditional exemption under this section, we may add conditions to the exemption to ensure that waste management during storage and treatment of the LLMW will protect human health and the environment.

Recordkeeping

§ 266.250 What records must you keep at your facility and for how long?

(a) In addition to those records required by your NRC or NRC Agreement State license, you must keep records as follows:

(1) Your initial notification records, return receipts, reports to us of failure(s) to meet the exemption conditions, and all records supporting any reclaim of an exemption;

(2) Records of your LLMW annual inventories, and quarterly inspections;

(3) Your certification that facility personnel who manage stored mixed waste are trained in safe management of LLMW including training in chemical waste management and hazardous materials incidents response; and

(4) Your emergency plan as specified in § 266.230(b).

(b) You must maintain records concerning notification, personnel trained, and your emergency plan for as long as you claim this exemption and for three years thereafter, or in accordance with NRC regulations under 10 CFR part 20 (or equivalent NRC Agreement State regulations), whichever is longer. You must maintain records concerning your annual inventory and quarterly inspections for three years after the waste is sent for disposal, or in accordance with NRC regulations under 10 CFR part 20 (or equivalent NRC Agreement State regulations), whichever is longer.

Reentry Into RCRA

§ 266.255 When is your LLMW no longer eligible for the storage and treatment conditional exemption?

(a) When your LLMW has met the requirements of your NRC or NRC Agreement State license for decay-in-storage and can be disposed of as non-radioactive waste, then the conditional exemption for storage no longer applies. On that date your waste is subject to hazardous waste regulation under the relevant sections of 40 CFR parts 260 through 271, and the time period for accumulation of a hazardous waste as specified in 40 CFR 262.34 begins.

(b) When your conditionally exempt LLMW, which has been generated and stored under a single NRC or NRC Agreement State license number, is removed from storage, it is no longer eligible for the storage and treatment exemption. However, your waste may be eligible for the transportation and disposal conditional exemption at § 266.305.

Storage Unit Closure

§ 266.260 Do closure requirements apply to units that stored LLMW prior to the effective date of Subpart N?

Interim status and permitted storage units that have been used to store only LLMW prior to the effective date of subpart N of this part and, after that date, store only LLMW which becomes exempt under this subpart N, are not subject to the closure requirements of 40 CFR parts 264 and 265. Storage units (or portions of units) that have been used to store both LLMW and non-mixed hazardous waste prior to the effective date of subpart N or are used to store both after that date remain subject to closure requirements with respect to the non-mixed hazardous waste.

Transportation and Disposal Conditional Exemption

§ 266.305 What does the transportation and disposal conditional exemption do?

This conditional exemption exempts your waste from the regulatory definition of hazardous waste in 40 CFR 261.3 if your waste meets the eligibility criteria under § 266.310, and you meet the conditions in § 266.315.

Eligibility

§ 266.310 What wastes are eligible for the transportation and disposal conditional exemption?

Eligible waste must be:

(a) A low-level mixed waste (LLMW), as defined in § 266.210, that meets the waste acceptance criteria of a LLRWDF; and/or

(b) An eligible NARM waste, defined in § 266.210.

Conditions

§ 266.315 What are the conditions you must meet for your waste to qualify for and maintain the transportation and disposal conditional exemption?

You must meet the following conditions for your eligible waste to qualify for and maintain the exemption:

(a) The eligible waste must meet or be treated to meet LDR treatment standards as described in § 266.320.

(b) If you are not already subject to NRC, or NRC Agreement State

equivalent manifest and transportation regulations for the shipment of your waste, you must manifest and transport your waste according to NRC regulations as described in § 266.325.

(c) The exempted waste must be in containers when it is disposed of in the LLRWDF as described in § 266.340.

(d) The exempted waste must be disposed of at a designated LLRWDF as described in § 266.335.

§ 266.320 What treatment standards must your eligible waste meet?

Your LLMW or eligible NARM waste must meet Land Disposal Restriction (LDR) treatment standards specified in 40 CFR part 268, subpart D.

§ 266.325 Are you subject to the manifest and transportation condition in § 266.315(b)?

If you are not already subject to NRC, or NRC Agreement State equivalent manifest and transportation regulations for the shipment of your waste, you must meet the manifest requirements under 10 CFR 20.2006 (or NRC Agreement State equivalent regulations), and the transportation requirements under 10 CFR 1.5 (or NRC Agreement State equivalent regulations) to ship the exempted waste.

§ 266.330 When does the transportation and disposal exemption take effect?

The exemption becomes effective once all the following have occurred:

(a) Your eligible waste meets the applicable LDR treatment standards.

(b) You have received return receipts that you have notified us and the LLRWDF as described in § 266.345.

(c) You have completed the packaging and preparation for shipment requirements for your waste according to NRC Packaging and Transportation regulations found under 10 CFR part 71 (or NRC Agreement State equivalent regulations); and you have prepared a manifest for your waste according to NRC manifest regulations found under 10 CFR part 20 (or NRC Agreement State equivalent regulations), and

(d) You have placed your waste on a transportation vehicle destined for a LLRWDF licensed by NRC or an NRC Agreement State.

§ 266.335 Where must your exempted waste be disposed of?

Your exempted waste must be disposed of in a LLRWDF that is regulated and licensed by NRC under 10 CFR part 61 or by an NRC Agreement State under equivalent State regulations, including State NARM licensing regulations for eligible NARM.

§ 266.340 What type of container must be used for disposal of exempted waste?

Your exempted waste must be placed in containers before it is disposed. The container must be:

(a) A carbon steel drum; or

(b) An alternative container with equivalent containment performance in the disposal environment as a carbon steel drum; or

(c) A high integrity container as defined by NRC.

Notification

§ 266.345 Whom must you notify?

(a) You must provide a one time notice to us stating that you are claiming the transportation and disposal conditional exemption prior to the initial shipment of an exempted waste from your facility to a LLRWDF. Your dated written notice must include your facility name, address, phone number, and RCRA ID number, and be sent by certified delivery.

(b) You must notify the LLRWDF receiving your exempted waste by certified delivery before shipment of each exempted waste. You can only ship the exempted waste after you have received the return receipt of your notice to the LLRWDF. This notification must include the following:

(1) A statement that you have claimed the exemption for the waste.

(2) A statement that the eligible waste meets applicable LDR treatment standards.

(3) Your facility's name, address, and RCRA ID number.

(4) The RCRA hazardous waste codes prior to the exemption of the waste streams.

(5) A statement that the exempted waste must be placed in a container according to § 266.340 prior to disposal in order for the waste to remain exempt under the transportation and disposal conditional exemption of subpart N of this part.

(6) The manifest number of the shipment that will contain the exempted waste.

(7) A certification that all the information provided is true, complete, and accurate. The statement must be signed by your authorized representative.

Recordkeeping

§ 266.350 What records must you keep at your facility and for how long?

In addition to those records required by your NRC or NRC Agreement State license, you must keep records as follows:

(a) You must follow the applicable existing recordkeeping requirements under 40 CFR 264.73, 40 CFR 265.73, and 40 CFR 268.7 of this chapter to demonstrate that your waste has met LDR treatment standards prior to your claiming the exemption.

(b) You must keep a copy of all notifications and return receipts required under §§ 266.355, and 266.360 for three years after the exempted waste is sent for disposal.

(c) You must keep a copy of all notifications and return receipts required under § 266.345(a) for three years after the last exempted waste is sent for disposal.

(d) You must keep a copy of the notification and return receipt required under § 266.345(b) for three years after the exempted waste is sent for disposal.

(e) If you are not already subject to NRC, or NRC Agreement State equivalent manifest and transportation regulations for the shipment of your waste, you must also keep all other documents related to tracking the exempted waste as required under 10 CFR 20.2006 or NRC Agreement State equivalent regulations, including applicable NARM requirements, in addition to the records specified in § 266.350(a) through (d).

Loss of Transportation and Disposal Conditional Exemption

§ 266.355 How could you lose the transportation and disposal conditional exemption for your waste and what actions must you take?

(a) Any waste will automatically lose the transportation and disposal exemption if you fail to manage it in accordance with all of the conditions specified in § 266.315.

(1) When you fail to meet any of the conditions specified in § 266.315 for any of your wastes, you must report to us, in writing by certified delivery, within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

(i) The specific condition(s) that you failed to meet for the waste;

(ii) A description of the waste (including the waste name, hazardous waste codes and quantity) that lost the exemption; and

(iii) The date(s) on which you failed to meet the condition(s) for the waste.

(2) If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally within 24 hours and follow up with a written notification within 5 days.

(b) We may terminate your ability to claim a conditional exemption for your

waste, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirement(s) of subpart N of this part.

§ 266.360 If you lose the transportation and disposal conditional exemption for a waste, can the exemption be reclaimed?

(a) You may reclaim the transportation and disposal exemption for a waste after you have received a return receipt confirming that we have received your notification of the loss of the exemption specified in § 266.355(a) and if:

(1) You again meet the conditions specified in § 266.315 for the waste; and

(2) You send a notice, by certified delivery, to us that you are reclaiming the exemption for the waste. Your notice must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. The notice must:

(i) Explain the circumstances of each failure.

(ii) Certify that each failure that caused you to lose the exemption for the waste has been corrected and that you again meet all conditions for the waste as of the date you specify.

(iii) Describe plans you have implemented, listing the specific steps that you have taken, to ensure that conditions will be met in the future.

(iv) Include any other information you want us to consider when we review your notice reclaiming the exemption.

(b) We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to: you have failed to correct the problem; you explained the circumstances of the failure unsatisfactorily; or you failed to implement a plan with steps to prevent another failure to meet the conditions of § 266.315. In reviewing a reclaimed conditional exemption under this section, we may add conditions to the exemption to ensure that transportation and disposal activities will protect human health and the environment.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261 and 268

[FRL–6975–2]

RIN 2050–AE07

Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's action finalizes the retention of the mixture rule and the derived-from rule in the Resource Conservation and Recovery Act (RCRA), with two revisions. The mixture and derived-from rules ensure that hazardous wastes that are mixed with other wastes or that result from the treatment, storage or disposal of hazardous wastes do not escape regulation and thereby cause harm to human health and the environment.

EPA is finalizing two revisions to the mixture and derived-from rules. These revisions would narrow the scope of the mixture and derived-from rules, tailoring the rules to more specifically match the risks posed by particular wastes. The first revision is an expanded exclusion for mixtures and/or derivatives of wastes listed solely for the ignitability, corrosivity, and/or reactivity characteristics. The second revision is a new conditional exemption from the mixture and derived-from rules for ''mixed wastes'' (that is, wastes that are both hazardous and radioactive).

DATES: These final regulations are effective on August 14, 2001.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The Docket Identification Number is F–2001–WHWF–FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the ''Supplementary Information'' section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 800 424–9346 or TDD 800 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703 412–9810 or TDD 703 412–3323.

For more detailed information on specific aspects of this rulemaking, contact Tracy Atagi, Office of Solid Waste 5304W, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002, 703–308–8672, *atagi.tracy@epa.gov.*

SUPPLEMENTARY INFORMATION: The index and many of the supporting materials are available on the Internet. You can find these materials at <http://www.epa.gov/epaoswer/hazwaste/id/hwirwste/index.htm>.

Affected Entities

Entities potentially affected by this action are generators of industrial hazardous waste, and entities that treat, store, transport and/or dispose of these wastes. This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action.

SIC code	NAICS code	List of potentially affected US Industrial Entities
Revision to 40 CFR 261.3 Definition of hazardous waste		
2800	32xxxx	Chemicals & allied products manufacturing.
2819	Five possible codes	Industrial inorganic chemicals manufacturing.
2821	325211	Plastics materials & resins manufacturing.
2833	325411	Medicinal chemicals & botanicals manufacturing.
2834	325412	Pharmaceutical preparations manufacturing.
2851	32551	Paints & allied manufacturing.
2869	Five possible codes	Industrial organic chemicals manufacturing.
2879	32532	Pesticides & agricultural chemicals manufacturing.
3089	Four possible codes	Plastics products manufacturing.
3241	32731	Hydraulic cement products manufacturing.
3479	Four possible codes	Fabricated metal coating & allied services
3711	Five possible codes	Motor vehicle & passenger car bodies manufacturing.
4212	562111 & 562112	Local trucking services (industrial waste shipment).
4953	Five possible codes	Refuse (industrial waste) treatment/disposal services.

SIC code	NAICS code	List of potentially affected US Industrial Entities
7389	36 possible codes	Business services.
7532	811121	Auto repair & auto paint shops.
9511	92411	Waste management.
9711	811121	National security (military bases).

Explanatory Notes:
(1) SIC= 1987 Standard Industrial Classification system (US Department of Commerce's traditional code system last updated in 1987).
(2) NAICS= 1997 North American Industrial Classification System (US Department of Commerce's new code system as of 1997).
(3) Refer to the Internet website *http://www.census.gov/epcd/www/naicsdev.htm* for additional information and a cross-walk table for the SIC and NAICS codes systems.

This table lists those entities that EPA believes could be affected by this action, based on industrial sectors identified in the economic analysis in support of this final rule. A total of about 120 entities are expected to benefit from the proposed revisions to 40 CFR 261.3 in the 17 industrial sectors listed above, but primarily in the chemicals and allied products sector (i.e., SIC code 28, or NAICS code 325). Other entities not listed in the table also could be affected. To determine whether your facility is regulated by this action, you should examine 40 CFR parts 260, 261 and 268 carefully in concert with the amended rules found at the end of this **Federal Register** document. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

ACRONYMS

Acronym	Definition
3MRA	Multimedia, Multipathway and Multireceptor Risk Assessment
APA	Administrative Procedures Act
BDAT	Best Demonstrated Available Technology
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CFR	Code of Federal Regulations
CMA	Chemical Manufacturers Association
CWA	Clean Water Act
DOT	Department of Transportation
EPA	Environmental Protection Agency
HSWA	Hazardous and Solid Waste Amendments of 1984
HWIR	Hazardous Waste Identification Rule
ICR	Information Collection Request
IRIS	Integrated Risk Information System
LDR	Land Disposal Restriction
LLMW	Low Level Mixed Wastes
LLRWDF	Low Level Radioactive Waste Disposal Facility
MACT	Maximum Achievable Control Technology
NPDES	National Pollution Discharge Elimination System
NRC	Nuclear Regulatory Commission (NRC)
NTTAA	National Technology Transfer and Advancement Act
OMB	Office of Management and Budget
ORD	Office of Research and Development
OIRM	Office of Information and Resources Management
OSW	Office of Solid Waste
OSWER	Office of Solid Waste and Emergency Response
PBMS	Performance Based Measurement System
QA/QC	Quality Assurance / Quality Control
RCRA	Resource Conservation Recovery Act
RFA	Regulatory Flexibility Act
RfD	Reference Dose
RfC	Reference Concentration
RIC	RCRA Docket Information Center
SBREFA	Small Business Regulatory Enforcement Fairness Act
TC	Toxicity Characteristic
TCLP	Toxicity Characteristic Leaching Procedure
TDD	Telecommunications Device for the Deaf
TSDF	Treatment, Storage, and Disposal Facility
UMRA	Unfunded Mandates Reform Act
UTS	Universal Treatment Standards

Outline

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G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
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I. Executive Order 12898: Environmental Justice
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XIII. What technical correction is EPA making in today's rulemaking?

Background

I. What Law Authorizes These Rules?

These rules are promulgated under the authority of Sections 2002(a), 3001, 3002, 3004, and 3006 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6912(a), 6921, 6922, 6924, 6926.

II. Which Hazardous Waste Identification Rules Is EPA Finalizing Today?

Today, EPA is finalizing retention and revision of the mixture and derived-from rules, previously set forth in 40 CFR 261.3(a)(2)(iii), 261.3(a)(2)(iv) and 261.3(c)(2)(i), and proposed at 64 FR 63382 (November 19, 1999). The mixture and derived-from rules are a part of the RCRA rules that define which wastes are considered to be hazardous and therefore subject to RCRA Subtitle C rules. The mixture and derived-from rules identify as hazardous those wastes that originate from RCRA hazardous waste listed under 40 CFR part 261 (referred to as ''listed hazardous wastes''). Under the mixture rule, a mixture of a solid waste with one or more listed hazardous wastes is a hazardous waste. Under the derived-from rule, any solid waste generated from the treatment, storage, or disposal of a listed hazardous waste remains regulated as a hazardous waste. These derived-from wastes include wastes such as sludges, spill residues, ash, emission control dust, and leachate generated from listed hazardous wastes.

The mixture and derived-from rules that are being finalized today include two revisions to these rules. For the first revision, we have narrowed the applicability of the derived-from rules by excluding derivatives of wastes listed solely for the characteristics of ignitability, reactivity, and/or corrosivity when they no longer exhibit any characteristic of hazardous waste. Mixtures of wastes listed solely for the characteristic of ignitability, reactivity, and/or corrosivity which no longer exhibit any characteristic of hazardous waste continue to be excluded under today's rules. In summary, under today's final rules, all wastes listed solely for an ignitability, reactivity and/or corrosivity characteristic (including mixtures, derived-from and as generated wastes) are excluded once they no longer exhibit a characteristic.

For the second revision, we are also finalizing a conditional exemption for certain low-level mixed waste (i.e., waste that is both radioactive and hazardous) from the mixture and derived-from rules, provided the mixed waste is handled in accordance with 40 CFR part 266, Subpart N. This Subpart, which is being published as a final rule elsewhere in today's **Federal Register**, explains the eligibility requirements for this exemption, and includes several conditions and requirements for the exempted waste.

III. What Is the Legal History of These Rules?

EPA promulgated the mixture and derived-from rules in 1980 as part of the comprehensive ''cradle to grave'' requirements for managing hazardous waste. 45 FR 33066 (May 19, 1980). Numerous industries that generate hazardous wastes challenged the 1980 mixture and derived-from rules. In December 1991, the D.C. Circuit Court of Appeals vacated the rules because they had been promulgated without adequate notice and opportunity to comment. *Shell Oil Co.* v. *EPA,* 950 F. 2d 741 (D.C. Cir. 1991). The court, however, suggested that EPA might want to consider reinstating the rules pending full notice and comment in order to ensure continued protection of human health and the environment.

In response to this decision, we promulgated an emergency rule reinstating the mixture and derived-from rules as interim final rules without providing notice and opportunity to comment. 57 FR 7628 (March 3, 1992). We also promulgated a ''sunset provision'' which provided that the mixture and derived-from rules would remain in effect only until April 28, 1993. Shortly after, we published a proposal containing several options for revising the mixture and derived-from rules. See 57 FR 21450 (May 20, 1992). The May 1992 proposal and the time pressure created by the ''sunset provision'' generated significant controversy. In response, Congress included in EPA's fiscal year (FY) 1993 appropriation several provisions addressing the mixture and derived-from rules. Public Law No. 102–389, 106 Stat. 1571. First, Congress nullified the sunset provision by providing that EPA could not promulgate any revisions to the rules before October 1, 1993, and by providing that the reinstated regulations could not be ''terminated or withdrawn'' until revisions took effect. However, to ensure that we could not postpone the issue of revisions indefinitely, Congress also established a deadline of October 1, 1994 for the promulgation of revisions to the mixture and derived-from rules. Congress made this deadline enforceable under RCRA's citizen suit provision, section 7002.

On October 30, 1992, we published two notices, one removing the sunset provision, and the other withdrawing the May 1992 proposal. (See 57 FR 49278, 49280). We had received many comments criticizing the May 1992 proposal. The criticisms were due, in a large part, to the very short schedule imposed on the regulation development process itself. Commenters also feared that the proposal would result in a ''patchwork'' of differing State programs because some states might not adopt the revisions. This fear was based on the belief that States would react in a negative manner to the proposal and refuse to incorporate it into their programs if finalized. Finally, many commenters also argued that the risk assessment used to support the proposed exemption levels failed to provide adequate protection of human health and the environment because it evaluated only the risks of human consumption of contaminated groundwater and ignored other pathways that could pose greater risks. Based on these concerns, and based on EPA's desire to work through the individual elements of the proposal more carefully, we withdrew the proposal.

Subsequently, a group of waste generating industries challenged the March 1992 action that reinstated the mixture and derived-from rules without change. *Mobil Oil Corp.* v. *EPA,* 35 F.3d 579 (D.C. Cir. 1994). The court rejected this challenge, holding that the fiscal year (FY) 1993 appropriations act made the challenge moot because it prevented both us and the courts from terminating or withdrawing the interim rules before we revised them, even if we failed to meet the statutory deadline for the revisions.

We did not meet Congress' October 1, 1994 deadline for revising the mixture and derived-from rules. In early October 1994, several groups of waste generating and waste managing industries filed citizen suits to enforce the October 1 deadline for revising the mixture and derived-from rules. Two of the cases were consolidated and a third was dismissed with the plaintiffs being added as intervenor to the consolidated cases. *Environmental Technology Council* v. *Browner,* C.A. No. 94–2119, 94–2436 (TFH) (D.D.C.). The U.S. District Court for the District of Columbia entered a consent decree resolving the consolidated cases. The consent decree, as subsequently amended, required the Administrator to sign a proposal to revise the mixture and derived-from rules by November 13, 1995 and a notice of final action on the proposal by February 13, 1997, and it also specified that the deadlines in the 1992 appropriations act do not apply to any rule revising the separate regulations that establish jurisdiction over media contaminated with hazardous wastes. On November 13, 1995, the Administrator signed the proposed Hazardous Waste Identification Rule to revise the mixture and derived-from rules, which was published in the **Federal Register** on December 21, 1995. (60 FR 66344). It proposed a set of exemption levels for hundreds of hazardous constituents, many of which were based on a complex multipathway risk assessment. The notice also proposed to revise the derived-from rule to exclude wastes listed because they exhibited the characteristics of ignitability, corrosivity and/or reactivity from the definition of hazardous waste, and solicited comment on the concept of providing a separate exemption for hazardous wastes mixed with low level radioactive wastes.

We received extensive comments, many critical, on the 1995 proposal, particularly with respect to the scientific risk assessment supporting the proposed concentration-based exemption from the mixture and derived-from rules. As a result of the comments, we concluded that considerable work needed to be done to resolve the complex scientific and technical issues raised. On April 11, 1997, the District Court entered an order amending the consent decree in *Environmental Technology Council* v. *Browner.* The amended decree provided us with additional time to perform further scientific risk assessment work and required us to ask for comment on specific issues. On November 19, 1999, we published a proposal requesting comment on revisions to the mixture and derived-from rules, and discussed and requested comment on the issues specified in the consent decree. Today's final rulemaking completes our legal obligation regarding revisions to the mixture and derived-from rules.

IV. How Do the Final Rules Compare to Those Proposed on November 19, 1999?

As we proposed, we are retaining both the mixture and derived-from rules, and the revisions to those rules that we are finalizing today are for the most part the same as those we proposed in November 1999. Our rationale and basis for today's final rulemaking is set forth in Sections VII, VIII, and IX of this preamble.

The first revision amends the regulations under 40 CFR 261.3 for wastes listed in 40 CFR part 261, subpart D solely because they exhibit a characteristic of hazardous waste. Under current regulations, such listed wastes as generated or treated are considered hazardous under RCRA Subtitle C, even when the waste does not exhibit a characteristic, unless they are delisted. However, mixtures are considered non-hazardous if the waste no longer exhibits any characteristic.

In the November 19, 1999 notice, we proposed to amend the scope of and expand the applicability of the current exclusion. The notice proposed a clarifying change to the scope of the exclusion to include those wastes listed in part 261, subpart D only for a characteristic of ignitability corrosivity, or reactivity. The notice also proposed to expand the applicability of the exclusion so all these materials would be excluded from hazardous waste regulation if they are decharacterized and meet the appropriate treatment standards. The notice stated that most of the currently regulated waste eligible for this exclusion is listed as F003, but would also include certain K-, P- and U-listed wastes (See 64 FR 63390–63391, November 19, 1999).

The exclusion applies when a generator determines that the waste, whether as generated or after treatment, does not exhibit any characteristic. This exclusion is self implementing, with no additional recordkeeping and reporting requirements.[1] EPA is finalizing this exclusion as it was proposed. With respect to the applicability of land disposal restrictions (LDR) in Part 268, EPA is clarifying that when a waste has been listed solely because it exhibits a characteristic of ignitability, corrosivity, and/or reactivity AND that waste does not exhibit any hazardous waste characteristic *at the point of generation,* then that waste is not subject to the LDR requirements. Wastes that are characteristic at the point of generation and then are subsequently decharacterized are still subject to LDR requirements. For information on the major public comments and EPA's responses and rationale for this exclusion, please see Section VIII of this preamble. For discussion of the LDR issue in particular, please see Section VIII.D.

The second revision to the mixture and derived-from rules involves mixed waste (i.e., wastes that are both hazardous and radioactive). Under this revision, mixed waste is conditionally exempt from the mixture and derived-from rules, provided the mixed waste is

[1] However, under 40 CFR 268.7(a)(7)(a) generator must still put a one-time notification in the facility files describing the waste generation, regulatory exclusion, and disposition of the waste(s). According to 40 CFR 268.7(a)(8), this notification must be kept for at least three years.

handled in accordance with 40 CFR part 266, Subpart N.

The regulatory language in 40 CFR part 266, Subpart N, which we are promulgating in a separate final rule published elsewhere today, conditionally exempts hazardous waste mixed with low-level radioactive wastes (low-level mixed wastes/LLMW) from the storage, treatment in tank, transportation, and disposal requirements of RCRA. In addition, hazardous waste mixed with Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM mixed waste) can be exempted from transportation and disposal requirements. The Nuclear Regulatory Commission (NRC) or its Agreement State licensed LLMW generators can store, or treat LLMW in storage tanks without RCRA Subtitle C permits if all exemption conditions are met. Treated LLMW or NARM mixed waste could be disposed at a low level radioactive waste disposal facility (LLRWDF) regulated by the NRC or its Agreement State if all exemption conditions are met. The rationale for conditionally exempting LLMW from the mixture and derived-from rules is the same as that for creating the conditional exemption from the RCRA regulatory definition of hazardous waste for LLMW.

We are largely finalizing the mixed waste exemption from the mixture and derived-from rules as proposed. However, to address public comments on the need for more clarity of this exemption, we have revised the regulatory language and have moved it to its own subsection (40 CFR 261.3(h)). As used in section 261.3(h), the term ''eligible radioactive mixed waste'' refers to hazardous waste containing radioactive waste that meets the eligibility criteria and conditions of part 266, subpart N. In addition, we have made some changes to the new Subpart N from what we proposed. Those changes are explained in the mixed waste final rule, published elsewhere in the **Federal Register** today. For information on the public comment regarding the exemption, and EPA's responses please see Section IX of this preamble.

V. When Will the Final Rules Become Effective?

Today's rules become effective August 14, 2001. Pursuant to section 3010(b)(1) of RCRA, the Administrator finds that the regulated community does not need six months to come into compliance with today's rulemaking, because today's action retains rules already in effect, and expands an exclusion that reduces regulatory burden.

VI. What Other Changes to the Hazardous Waste Identification Rules Is EPA Continuing To Pursue?

EPA continues to pursue an exemption from hazardous waste management that we discussed in the November 19, 1999 HWIR **Federal Register** notice (64 FR 63382). That exemption, also known as the Hazardous Waste Identification Rule (HWIR) exemption, would exempt listed hazardous wastes that meet chemical-specific exemption levels [2] from the definition of hazardous waste. The HWIR exemption would help address concerns that the mixture and derived-from rules result in over-regulation, since listed hazardous waste remains under Subtitle C jurisdiction regardless of constituent concentration or presence in the waste, either before or after treatment. This concern was exacerbated with the passage of HSWA in 1984. HSWA set Land Disposal Restrictions (LDR) requiring best demonstrated available technology (BDAT) treatment for all listed hazardous wastes prior to disposal. In cases where a specific listed wastestream contained relatively innocuous constituents, or very low concentrations, BDAT treatment requirements were felt to be overly protective, and unnecessarily expensive. The Agency believes that an HWIR exemption process would help reduce the potential over-regulation of low risk hazardous waste while, at the same time, reducing the time and resource burden on industry and government. An exemption process would also reduce the burden on the ongoing delisting program. In the 1995 HWIR proposal, we estimated cost savings ranging from $75 million to $99 million, based on exemption levels proposed at that time. Given that the modeling for exemption levels is undergoing major revision, it is not possible at this time to estimate the cost savings from a future constituent-based exemption.

We plan to develop the HWIR exemption levels based on results from the Multi-media, Multi-pathway and Multi-receptor risk assessment (3MRA) Model. The model evaluates simultaneous chemical exposures across several environmental media and multiple exposure pathways to human and ecological receptors in order to estimate the health and ecological effects in the vicinity of waste disposal units that may receive exempt listed hazardous waste. We presented the underlying methodology and assumptions for the 3MRA Model in the **Federal Register** (64 FR 63382, November 19, 1999). However, because of technical difficulties arising from the complexity of the modeling effort, we were unable to propose exemption levels in that notice. Since then, we have made numerous revisions to correct and improve the model.

On July 18, 2000, EPA made available in a Notice of Data Availability (NODA) the model results for 36 chemicals, using an updated version of the model (65 FR 44491). The NODA, and referenced background information placed in the docket, explained technical changes made to the model since the November 19, 1999 **Federal Register** notice. Finally, the NODA extended the comment period for the November 19, 1999 HWIR exemption discussion until October 16, 2000.

We are currently reviewing the public comments and will decide if further revisions to the HWIR risk assessment (3MRA) model are necessary. We also are continuing independent testing and external peer review of the HWIR risk assessment model.

In addition to the HWIR risk assessment, the November 19, 1999 **Federal Register** notice discussed options for implementing the HWIR exemption. We also plan to review the comments relating to implementation. Before using the revised risk assessment to support a final rulemaking on the HWIR exemption, we will publish a proposal to allow public comment on a unified package.

In another effort to better calibrate risk and regulatory standards, the Agency is also developing two targeted exemptions from the hazardous waste mixture and derived-from rules: one for certain solvents destined for wastewater treatment and discharge under the Clean Water Act, and another for slagged combustion residues from hazardous waste combustors. Other targeted exemptions are being assessed for later development (see Section X of this preamble for further discussion). We also plan to continue on-going efforts to streamline the existing delisting process.

Major Comments

VII. What Were the Major Comments on Retaining the Mixture and Derived-From Rules, and How Has EPA Responded to Them?

EPA received several dozen comments on the issue of retaining the mixture and derived-rules for both the 1995 and 1999 HWIR proposals. Below is a summary of three major issue areas

[2] An ''exemption level'' in this context is a specific chemical concentration. If all chemicals in a waste are below their exemption levels, then the waste would be considered non-hazardous.

raised in the comments, and EPA's responses. For more detailed comment responses, please see *Hazardous Waste Identification Rule: Revisions to the Mixture and Derived-From Rules Response to Comments Document.*

A. Need for the Mixture and Derived-From Rules

(1)(a) Summary of the Comments on the Need for the Mixture and Derived-From Rules

EPA received comments from 38 commenters in response to both the 1995 and the 1999 HWIR proposals specifically concerning the necessity of the mixture and derived-from rules. Of those comments, 14 were received from industry, seven were from industry associations, eight were from State Agencies, five were from waste management companies, two were from waste management associations, one was from a Federal Agency and one was from a consultant.

The States and waste management associations supported the retention of the mixture and derived-from rules, while the industry commenters generally believed that the mixture and derived-from rules were unnecessary. A summary of the specific issues raised by commenters is provided below.

Twelve commenters explicitly supported the retention of the mixture and derived-from rules. Many of the State commenters said that the rules were necessary to capture mixtures and derivatives of listed hazardous wastes in the universe of regulated hazardous wastes in order to protect human health and the environment. The commenters noted that without these rules, it would be possible to alter a particular waste to the point that it no longer meets the listing description without detoxifying, immobilizing, or otherwise actually treating the waste. One industry association commenter also supported the retention of the mixture and derived-from rules, noting that although it is not a perfect solution, the approach has been used for the last 15 years in a generally effective manner.

One waste management association commenter also strongly supported the retention of the mixture and derived-from rules. The commenter believed the mixture and derived-from rules were necessary because they prevented many wastes that clearly were hazardous and that posed substantial threats to human health and the environment from escaping RCRA controls only because they are mixtures or derivatives that no longer fit an original listing description. The commenter noted that generators send their listed hazardous wastes to treatment facilities for initial treatment to reduce the toxicity and/or mobility of some, but not all, toxic constituents in the waste. The commenter also agreed that EPA's experience with delisting petitions further supported the rationale for the mixture and derived-from rules.

Twenty-six commenters did not support the retention of the mixture and derived-from rules. Some asserted that eliminating the derived-from rule would be a common sense reform of RCRA to reduce unnecessary over-regulation of many wastes. Many industry commenters and industry associations commented that the mixture and derived-from rules unnecessarily continue to regulate low-risk material resulting in significant waste management costs with no associated environmental benefit, thus also affecting the credibility of EPA. Several of the comments cited EPA's 1992 HWIR proposal, saying that ''millions of tons of mixtures and derived-from residuals that must be managed as hazardous waste * * * may actually pose quite low hazards.'' (57 FR 21451, May 20, 1992). The Department of Defense acknowledged the need to retain the mixture and derived-from rules; however, the commenter noted that the mixture and derived-from rules have been a source of over-regulation for low-risk wastes.

Several commenters asserted that the mixture and derived-from rules have no continued viability, particularly in light of the technological advances that have developed since the rules were first promulgated in 1980. They noted that since 1980, the regulated community has made considerable improvements in the treatment, storage, and disposal of hazardous waste. In their view, the result is that the risks that formerly may have been associated with the management of hazardous waste have been reduced significantly or eliminated, such that the universe of waste that may have warranted Subtitle C regulation in 1980 has been reduced significantly. Six commenters agreed with the U.S. Court of Appeals observation in *Shell Oil Co.* v. *EPA,* 590 F.2d 741, 752 (D.C. Cir. 1991) that, ''the derived-from rule becomes counterintuitive as applied to processes designed to render wastes nonhazardous. Rather than presuming that these processes will achieve their goals, the derived-from rule assumes their failure.'' Commenters also noted that the hazardous waste characteristics, particularly the Toxicity Characteristic, would continue to ensure proper management of high risk wastes under RCRA.

Several commenters stated that when compared to established standards, a waste material is either hazardous or it is not and it is not necessary to consider the origin of the material. The consultant noted that the mixture rule is completely unnecessary and isn't scientifically appropriate because if the compound or element in the waste needs to be controlled in a certain environment, it doesn't matter what the source is. Therefore, a regulation should set the limit for that environment for that compound or element and the mixture and derived-from rules should be eliminated. One commenter believed that the continued inflexible application of the mixture and derived-from rules has served only to bring to light the self-defeating complexity of the program.

(1)(b) EPA Response To Comments on the Need for the Mixture and Derived-From Rules

EPA acknowledges that the mixture and derived-from rules apply regardless of the concentrations and mobilities of hazardous constituents in the waste. We have implemented and will continue to pursue actions to reduce any overregulation of low-risk wastes arising from the mixture and derived-from rules. Nevertheless, EPA believes that retention of the mixture and derived-from rules are necessary to ensure protection of human health and the environment. When EPA determines that a waste should be listed as hazardous, we consider several different factors, including the toxicity of the chemicals in the waste, the persistence of those toxic chemicals, and the degree to which the chemicals bioaccumulate in the environment. As discussed below, the act of mixing a hazardous waste with another waste, or storing, treating, and disposing of that waste does not necessarily remove the hazard posed by these toxic chemicals. Under RCRA, EPA has an obligation to ensure that the risk posed by a hazardous waste is controlled from the cradle to the grave. Both the mixture and derived-from rules are needed to make sure that this obligation is carried out.

Concerns About Deliberate Evasion

When EPA originally promulgated the mixture and derived-from rules in 1980, one of our main concerns was that, without these rules, generators could deliberately evade regulation by taking advantage of a ''loophole'' in the hazardous waste identification process. (45 FR 33084, 33095 (May 19, 1980)). Specifically, we believed that without the mixture and derived-from rules, generators could potentially alter their waste so that it no longer meets the

listing description without detoxifying, immobilizing, or otherwise effectively treating the waste.

Despite the progress that has been made in environmental compliance in the past twenty years, this concern remains, and the comments of EPA's co-regulators, the State governments, echo this continuing concern. EPA agrees with those industry comments that claim many companies are more environmentally aware and responsible than they were in the past. However, there will always be some entities who might try and exploit gaps in the regulatory system. Absent the mixture and derived-from rules, there would be a potentially significant gap in the coverage of the hazardous waste listings.

For example, without a ''mixture'' rule, generators of hazardous wastes could potentially evade regulatory requirements by mixing listed hazardous wastes with other hazardous wastes or nonhazardous solid wastes to create a ''new'' waste that arguably no longer meets the listing description, but continues to pose a serious hazard. Similarly, without a ''derived-from'' rule, hazardous waste generators and hazardous waste treatment, storage, and disposal facilities (TSDFs) could potentially evade regulation by minimally processing or managing a hazardous waste and claiming that the resulting residue is no longer the listed waste, despite the continued hazards that could be posed by the residue even though it does not exhibit a characteristic. A hazardous waste regulatory system under which it could be argued that hazardous waste could leave the system as soon as it was modified to any degree by being mixed or marginally treated would be ineffective and unworkable. Such a system could act as a disincentive to adequately treat, store and dispose of listed hazardous waste.

In addition, as explained below, even if generators or TSDFs do not deliberately try to evade hazardous waste regulations, certain waste mixtures and derived-from wastes could pose substantial present or potential hazards if mismanaged. We, therefore, continue to believe that the mixture and derived-from rules are necessary to capture wastes that would pose unacceptable risks to human health and the environment.

Regulating Hazardous Waste Mixtures

Mixing hazardous waste with another waste may dilute, and sometimes mask, the concentrations of toxic constituents in the listed waste, but does not necessarily address the hazards posed by these constituents. Some of the comments focused on diluted wastewaters as an example of mixtures that are potentially ''low risk.'' Of the ''millions of tons'' of waste that EPA estimated would be exempted under the 1995 HWIR proposal because they may pose low risks, 99% of the waste by volume is wastewater (60 FR 66415, December 21, 1995). Wastewaters are generally disposed either in an underground injection control well regulated under the Safe Drinking Water Act (SDWA)or to the environment under the Clean Water Act (CWA). Because discharged hazardous wastewaters must meet CWA standards, some commenters believe that these wastewater mixtures should be excluded from hazardous waste regulation prior to their discharge.

We have several concerns with this argument. The management of wastewater mixtures is already largely exempt from most RCRA requirements. The two main requirements that remain under RCRA are that the wastewaters must be managed in tanks, and the treatment sludge must be managed as a hazardous waste once removed from the tank. Continued management of these wastewaters in tanks is usually needed to avoid infiltration to groundwater of concentrations of toxic constituents that pose unacceptable risks. Even when they meet their CWA discharge limits, mismanaged wastes could pose unacceptable risks through the groundwater pathway, which is not addressed by the CWA. Sludges from wastewater treatment need to be managed as hazardous waste, because they can contain the same persistent and toxic chemicals (e.g., heavy metals) that originated in the wastewaters. Each of these points is discussed in more detail below.

RCRA section 1004(27) already excludes industrial wastewater discharges subject to CWA section 402 regulation from the definition of ''solid waste'' under RCRA. See also, 40 CFR 261.4(a)(2). In addition, wastewater treatment units, as defined in 40 CFR 260.10 (i.e., tanks), are excluded from almost all RCRA regulation (see 40 CFR 264.1(g)(6); 265.1(c)(10); and 270.1(c)(2)(v)). RCRA has historically deferred to the Clean Water Act and its oversight in properly regulating hazardous wastewaters discharged by CWA wastewater treatment systems or other point sources subject to CWA discharge requirements, including storage in wastewater treatment units prior to discharge. However, with the exception of sewage sludge, the CWA does not apply to sludges which are a byproduct of wastewater treatment. To the extent treatment of listed hazardous wastewaters generates sludges, those sludges are considered hazardous by the derived-from rule (as discussed below).

Furthermore, to the extent that additional hazards may be associated with wastewaters managed in such systems (including risks via inhalation pathway and risks via groundwater ingestion when treatment takes place in surface impoundments),[3] the Agency considers such wastes as hazardous and within RCRA jurisdiction until discharged. While wastewaters must meet CWA requirements at the point of discharge, they can still have high concentrations of constituents during the management of the waste.

Even after hazardous wastewaters have been treated to meet CWA standards, they could still have the potential to pose unacceptable risks to human health and the environment when managed in surface impoundments or other retention ponds (or otherwise managed on the land, i.e., during a spill) prior to discharge to the receiving water body. Both surface impoundments and retention ponds can have high potential for discharge of the wastewaters they contain to underlying groundwater (*see* RCRA sections 1002(b)(7) and 3005(j)). Discharge treatment requirements based on State water quality standards are calculated by taking the nature of the effluent and the receiving water body into account. An effluent treated to meet water quality standards for a surface water body could leach into groundwater, depending on the hydrogeology of the site, if subsequently held in a surface impoundment or retention pond prior to discharge. This leachate could undergo a lesser degree of dilution in groundwater than in the intended surface water body, potentially posing unacceptable risks to groundwater users through a drinking water well. This risk is not accounted for under the current federal CWA standards.[4] Therefore, EPA continues to believe that retaining

[3] The Revised Air Characteristic Study (EPA 530–R–99–019a) published August 1999 suggests that potential risks emanating from wastewaters managed in wastewater treatment tanks may be of regulatory concern and may represent a regulatory gap because of the existing exclusions for wastewater treatment units from control requirements.

[4] The current federal National Pollution Discharge Elimination System (NPDES) program under the CWA does not require permitting authorities to issue permits for discharges of wastewater to groundwater (See 40 CFR 122.1 and 122.2). The exception is those instances in which a discharge to surface water may occur via a hydrologic connection between a groundwater and surface water. In addition, some states have chosen to exceed federal program requirements and do issue such permits. *See also* U.S. EPA NDPES. Permit Writers' Manual, United States Environmental Protection Agency, Office of Water, December 1996. EPA–833–B–96–003.

jurisdiction over hazardous wastewaters under RCRA prior to their NPDES-permitted discharge is necessary to ensure protection of human health and the environment.

Another reason why these wastewaters should not be categorically designated as non-hazardous prior to discharge is because that would effectively exclude their treatment sludges as well (by avoiding the application of the derived-from rule).[5] As explained below in more detail, treatment sludges from these dilute wastes cannot be assumed to be low risk. In fact, treatment sludges can contain high levels of the very chemicals (e.g., heavy metals) that caused the original waste to be listed. In these cases, the hazard that was identified as the original basis of listing has not been removed; it has merely been transferred to another type of waste matrix (i.e., from a water to a solid).

In sum, EPA has excluded (through the wastewater treatment unit exclusions) hazardous wastewaters from regulation where we believe there is a reasonable basis to do so, grounded in the protection of human health and the environment, and the statute excludes from RCRA jurisdiction industrial wastewater discharges subject to CWA discharge permits. But based on the available data, EPA believes that a blanket wastewater exclusion from regulation is not warranted. Instead, EPA will continue to develop approaches (e.g., targeted exemptions and HWIR exemption levels) to address wastewaters that are be considered low risk.

Regulating Derived-From Wastes

As explained in 40 CFR 261.3(c)(2)(i), any solid waste derived from the treatment, storage, or disposal of a hazardous waste is also considered a hazardous waste. Specific examples of these derived-from wastes include sludges, spill residues, ash, emission control dust, and leachate. For derived-from wastes that change location but are otherwise unmodified, the question of their continued regulation is more straightforward. Because such waste would have the same levels of toxic constituents and presumably the same potential exposure patterns as the waste that was evaluated for the original hazardous listing determination, it would pose the same unacceptable risk as the original waste.

Other types of derived-from wastes may have a different physical form than the original waste, but still present the same chemical hazard. Leachate derived from the disposal of hazardous waste, for example, can contain the same chemicals as found in the original waste. When EPA analyzed leachate for purposes of promulgating effluent guidelines for landfill leachate (65 FR 3007, January 19, 2000), we found that wastewater generated as a result of a particular industrial operation can have a similar pollutant profile to leachate generated by a landfill receiving the bulk of their waste from that same operation (65 FR 3008, 3012, January 19, 2000). During treatment, chemicals in hazardous wastewater are transferred to the sludge, which is disposed of in the captive landfill. Once the sludge is disposed in a landfill, persistent chemicals in this sludge can then transfer to the leachate, which, when managed in a wastewater treatment unit, transfers them once more to sludge. Although changed in form, the treatment sludge (and leachate) could still pose similar unacceptable risks as the originally listed waste, depending on actual concentrations and exposure patterns.

We also found considerable differences between the leachate samples from hazardous and those from non-hazardous waste landfills in both numbers of constituents of concern and their concentrations. Hazardous waste landfill leachate contained a greater number of constituents than non-hazardous waste landfill leachate, and constituents found in both hazardous and non-hazardous waste landfill leachate were generally present in hazardous waste landfill leachate at concentrations an order of magnitude higher than those found in non-hazardous waste landfill leachate.[6] Absent a risk assessment, it is not possible to determine whether the levels of these constituents pose unacceptable risk. However, the presence of such constituents creates a continuing concern regarding leachate derived from hazardous waste.

The other broad category of derived-from waste are treatment residues. At least six commenters cited the D.C. Circuit Court of Appeals observation in *Shell Oil Co.* v. *EPA,* 590 F.2d at 752 that ''the derived-from rule becomes counterintuitive as applied to processes designed to render wastes nonhazardous.'' However, the presumption that treatment always renders hazardous waste nonhazardous is overly simplistic. This presumption does not take into account all products of treatment. Even treatment that operates properly is often designed to isolate a hazardous residual. For example, wastewater treatment designed to produce a sufficiently clean effluent for discharge is also designed to move the hazardous constituents from the wastewater into the sludge. The resulting de-watered sludge, while much lower in volume than the original hazardous wastewater, has the potential to have much greater concentrations of hazardous chemicals. As explained above, once the sludge is disposed in a landfill, persistent chemicals in this sludge can then transfer to the leachate, which, when managed in a wastewater treatment unit, transfers them once more to sludge.

The derived-from rule thus ensures that the chemicals in the originally listed waste that are transferred to another matrix when the waste is managed remain under RCRA Subtitle C control. Without the derived-from rule, a hazardous wastewater could be treated so that hazardous constituents are moved to the sludge. If the generator could claim that the resulting sludge, regardless of chemical concentration, no longer meets the listing description, then that sludge could be handled as non-hazardous waste, and placed in an unlined industrial landfill, or sent to a land application unit.[7] The resulting leachate would not necessarily be collected. Instead, those chemicals that first caused the waste to be listed could potentially now enter the environment and, depending on the actual chemical concentrations and exposure patterns, could pose unacceptable risks.

Other types of treatment, which result in combining wastes with different chemical concentrations, can result in dilution of those chemicals, but may not adequately address the hazard they could pose. As mentioned earlier in the discussion on regulating mixtures, combining wastewaters for centralized treatment is often a legitimate treatment practice, but the diluting effect of such treatment does not address the transfer of persistent chemicals to the sludge.

Finally, treatment that reduces the amount of organic chemicals in a waste does not typically address the risk from

[5] These wastes would still be subject to the hazardous waste characteristics of 40 CFR Part 261, Subpart C, but, as explained later in this preamble section, such coverage would not address all the unacceptable risks potentially posed by the chemicals in these wastes.

[6] Development Document for Final Effluent Limitations Guidelines and Standards for the Landfills Point Source Category, EPA–821–R–99–019, U.S. EPA, January 2000.

[7] These wastes would still be subject to the hazardous waste characteristics of 40 CFR Part 261, Subpart C, but, as explained later in this preamble section, such coverage would not address all the unacceptable risks potentially posed by the chemicals in these wastes.

metals in the waste. For example, biological treatment and incineration, which are among the most aggressive forms of treatment, are designed to reduce or destroy organic chemicals. However, these types of treatment do not address heavy metals and may form chemical by-products (e.g., dioxins) that could pose unacceptable risks, if not managed properly. For example, baghouses on combustion devices serve to collect hazardous constituents that would otherwise be emitted to the air from the combustion process, and the dust that is removed from the baghouses predictably contains metals that were in the original waste. In response to industry comments, EPA will explore specific approaches for dealing with biological treatment residues and has already begun considering an alternative approach to address combustion residues (See Sections X.C. and X.D. of this preamble.) EPA will also continue to develop approaches (e.g., targeted exemptions and HWIR exemption levels) to exempt other waste streams that are currently captured by the derived-from rules but pose low risks.

Historic Information on Mixture and Derived-From Wastes

As we discussed in the 1999 proposal, EPA's experience with the delisting program further supports retaining the mixture and derived-from rules as a necessary part of hazardous waste identification. Generators can petition EPA under 40 CFR 260.22 to exclude a waste produced at a particular facility from the definition of hazardous waste. Such petitions must demonstrate that the waste does not meet any of the criteria for which it was listed nor has other attributes that might result in the waste being hazardous.

Over the 20-year period from 1980 through 1999, EPA reviewed over 900 petitions to delist wastes, and granted delistings to 136 waste streams generated at 115 separate facilities. Most of the petitions (i.e., more than 600) were withdrawn or mooted before the review was complete; 108 were denied. Most of these denials were based on lack of information. In at least 13 of the 36 cases where enough information is available in the source documentation to determine whether a waste was a mixture or derivative, we denied delisting petitions for mixtures or residuals of listed waste because risk analyses indicated that the toxicity and leaching potential of hazardous chemicals in those wastes posed unacceptable risk to human health. These mixture and derived-from wastes had potentially hazardous levels of a wide range of chemicals including barium, cadmium, chromium, lead, mercury, nickel, benzene, benzo(a)pyrene, cyanide, chloroform, 1,1-dichloroethane, 1,1-dichloroethylene, 2,4-dinitrotoluene, methylene chloride, trichloroethylene, and vinyl chloride.[8]

We have also identified possible damage cases associated with mixture and derived-from wastes. For example, there are Superfund sites that contain mixture and derived-from wastes (See 50 FR 658). We have identified at least twenty sites that may have involved the mismanagement of mixture and derived-from wastes.[9] The sites identified include cases of extensive contamination of soils and groundwater with metals (e.g., arsenic, lead, mercury), cyanide, and organics (e.g., benzene, toluene, and xylenes). It is very difficult to identify the full range of damage cases that specifically involve waste mixtures or derivatives since neither EPA nor other parties track or categorize waste based on its status under the mixture or derived from rules.

The legislative history of RCRA also provides examples of damage cases caused from disposal of mixture and derived-from hazardous wastes. In introducing the purpose of Subtitle C, the House Committee on Interstate and Foreign Commerce cited seven pages of damage cases, stating, ''The most effective way of illustrating the dangers of improper hazardous waste disposal is perhaps to cite actual instances of damage caused by current hazardous waste disposal practices. The following section is merely illustrative of the problem. Far more cases could be cited, even more have gone unreported.'' H.R. Rep. No. 94–1491 (94th Cong. 2d Sess. 1976) 17–23. Of the 59 instances described in the House Committee Report, at least 40 involved spills, leachate or runoff from landfills, lagoons or waste storage facilities. Leachate and run-off are derived-from wastes, as are spills from storage and disposal facilities, and some of the sources contained mixtures of hazardous and non-hazardous solid wastes.

Intrinsic Chemical Properties of RCRA Hazardous Waste ''Mixtures'' and ''Derived-From'' Wastes

We also analyzed the information in EPA's National Hazardous Waste Constituent Survey (NHWCS) Database to assess the intrinsic physical and chemical properties of RCRA hazardous waste ''mixtures'' and ''derived-from'' wastes. The purpose of the NHWC Survey was to collect descriptive information about the identity and measured concentrations of chemical constituents contained in RCRA hazardous wastes. The NHWCS was a one-time, voluntary participation mail survey we administered in 1996, providing a single-year ''snapshot'' of the intrinsic physical and chemical properties of RCRA hazardous wastes. It is EPA's most comprehensive and current database about hazardous waste constituents. We benchmarked the 1996 survey to data already collected in our 1993 Biennial Reporting System (BRS) database—which contains data provided by the 1993 universe of RCRA hazardous waste large quantity generators—by pre-loading survey questionnaires with the known 1993 BRS data for the NHWC survey facilities, and asking facilities to verify the known BRS data, as well as to provide new data about the known chemical constituents in the RCRA hazardous wastes they managed (constituent data are not contained in the BRS database). This analysis is presented as a technical supplement to this rulemaking for purpose of public understanding of the intrinsic nature of these two groups of wastes, which we currently regulate as RCRA hazardous. This supplemental analysis corroborates the substance of our proposed rule (64 FR 63382–63461, Nov. 19, 1999).

Although the survey results apply to a subset of the total universe of waste and should not be extrapolated to the larger universe of RCRA hazardous waste generators, the information provides valuable insight into the types and levels of chemicals that could be present in such wastes. A large number of waste streams captured in the NHWCS were identified by their generators as mixtures of solid waste and hazardous waste or derived-from hazardous wastes. The analysis revealed that potentially hazardous chemical constituents, have been and can be present in wastes mixed with or derived-from, RCRA hazardous wastes. Although this analysis is not a quantitative risk assessment, this conclusion is supported by the presence of persistent, bioaccumulative, and toxic (PBT) chemicals in these two waste groups, some of which are at relatively high concentrations. Consequently, we continue to be concerned about the potential risks posed by the mismanagement of RCRA hazardous

[8] U.S. EPA *Evaluation of Hazardous Waste Delisting Program,* December 2000; and *Analysis of the Delisting Petition Data Management System,* U.S. EPA, September 1998). EPA Docket 99–WH2P–FFFFF.

[9] EPA 2000. *Releases of Hazardous Constituents Associated with Mixture and Derived-from Wastes (An Update)* U.S. EPA, April 2000.

waste ''mixtures'' and ''derived-from'' wastes.

For more information about this analysis, please see the background document *Analysis of RCRA ''Mixtures and Derived-from'' Hazardous Waste Constituent Data,* which is available to the public from the RCRA Docket. The NHWCS database is available to the public via the Internet at *http://www.epa.gov/epaoswer/hazwaste/id/hwirwste/economic.htm.*

Regulatory Coverage by the Toxicity Characteristic

EPA also does not agree with comments that the mixture and derived-from rules are not necessary because the Toxicity Characteristic (TC) provides regulatory coverage of these wastes. The TC currently sets regulatory levels for only 40 chemicals. (see 40 CFR 261.24). On the other hand, the hazardous waste listings are based on hundreds of different chemicals. (see Appendix VII to 40 CFR Part 261). In addition, the TC levels are the result of laboratory analyses to predict whether a waste is likely to leach chemicals into groundwater at hazardous levels, not the result of a comprehensive risk assessment. Depending on the actual constituents in a waste and their concentrations, wastes with constituents that fall below TC levels can still pose unacceptable risks to human health and the environment if mismanaged. (55 FR 11799). EPA has listed wastes based on the presence of constituents below the TC levels. For example, in the final listing decision for spent hydrotreating and hydrorefining catalysts from refinery operations, we analyzed the potential risk from arsenic and benzene using input leachate concentrations capped at TC regulatory levels. The results of this analysis suggested unacceptable risks posed by these wastestreams from concentrations below the TC regulatory levels (63 FR 42154). The mixture and derived-from rules are necessary for capturing such wastes that could pose unacceptable risks from chemicals without TC levels and for risks not addressed by the TC approach.

Conclusion

When EPA determines that a waste is capable of posing a hazard to human health or the environment when improperly managed, that determination is based on consideration of several different factors, including the toxicity, persistence, degradability in nature, the potential of chemicals to bioaccumulate in tissue, flammability, corrosiveness, and other hazardous characteristics and related factors. The act of mixing, storing, disposing or even treating the waste does not guarantee removal of the hazard posed by these chemicals, nor does it remove EPA's obligation to ensure that the hazards presented by the waste continue to be controlled from the cradle to the grave, even when it is transferred to another waste matrix. Nevertheless, EPA will continue to develop approaches to exempt low-risk wastes from full Subtitle C regulation, as appropriate. Since the original promulgation of the mixture and derived-from rules, we have invited suggestions as to better ways of handling the difficult issues associated with the mixing, treating, storing, disposing, and otherwise managing waste following its generation. See 45 FR 33095 (May, 19, 1980). We have considered and are continuing to pursue suggestions for targeted exemptions (e.g., the CMA suggestions discussed at Section X of the preamble) as well as a risk-based exit level approach to identifying low-risk wastes.

B. Legality of the Mixture and Derived-From Rules

EPA received comments in response to both the 1995 and 1999 HWIR proposals on RCRA Subtitle C jurisdiction over mixtures and derivatives from the management of listed hazardous wastes. Of the 42 commenters who specifically commented on the statutory authority for these rules, 38 were received from industry (including utilities and trade associations), two were from waste management companies, one was from a waste management association and one was from an individual commenter. Almost all these comments expressed the view that EPA lacked statutory authority to promulgate these rules, although other commenters who generally supported retention of the mixture and derived-from rules expressed the view that these wastes are properly under RCRA Subtitle C jurisdiction.

The waste management association agreed that EPA had statutory authority under RCRA to promulgate the mixture and derived-from rules in 1980, and that EPA also had ample authority to retain the basic rules now without change. The commenter, citing *Shell Oil Corp.* v. *EPA,* believed that the rules were consistent with EPA's legal authority under RCRA section 3001 to determine when wastes are hazardous based on listing criteria, and under RCRA sections 3002–3004 to impose regulatory standards until wastes have ceased to pose a hazard to the public.

As noted, most commenters expressed the view that EPA is acting beyond its statutory authority by retaining the mixture and derived-from rules. These comments asserted three main points: (1) Mixture and derived-from wastes do not meet the statutory definition of hazardous under RCRA section 1004(5); (2) EPA has not met the requirements under section 3001, 42 U.S.C. Section 6921 and 40 CFR 261.10 and 261.11 for designating wastes as hazardous; and (3) EPA has no authority under sections 3002–3004 of RCRA to designate wastes as hazardous. A summary of each of these specific issues raised by commenters, and EPA's response to these issues, is provided below. For more information on these comments and EPA' responses, please see *Hazardous Waste Identification Rule: Revisions to the Mixture and*

Derived-From Rules Response to Comments Document.

(1)(a) Comment: Mixture and Derived-From Wastes Do Not Meet the Statutory Definition of Hazardous Under RCRA Section 1004(5)

Numerous commenters from industries, industry associations, utility companies, utility company associations and waste management companies generally believed that the mixture and derived-from rules were too broad and swept in many wastes which did not meet the statutory definition of hazardous wastes, and that the derived-from rule in particular was not supported by statutory authority. One commenter even felt that the derived-from rule was a ''legal fiction'' because treatment residuals must be managed as if the treatment had not occurred. Commenters noted that EPA only was authorized under the Resource Conservation and Recovery Act (RCRA) to designate as hazardous waste those solid wastes that EPA determined may (1) cause, or significantly contribute to an increase in mortality or serious illness, or (2) pose a substantial present or potential hazard to human health or the environment when improperly managed (RCRA section 1004(5), 42 U.S.C. 6903(5)). Commenters expressed the view that EPA can regulate under Subtitle C only those solid wastes that EPA determined pose substantial hazards per the language in Section 1004(5) of RCRA. Many commenters also noted that, in their view, many of these wastes pose minimal or no threat to the environment and public health. The majority of these commenters believed that EPA made no attempt to demonstrate that derived-from wastes met the statutory definition of hazardous waste. Instead, these commenters believed EPA simply drew conclusions that these materials were

hazardous waste, even though many derived-from wastes had not met the statutory definition of hazardous waste. They also noted that EPA has admitted that many derived-from wastes pose little risk to human health or the environment. Therefore, they claim that the derived-from rule was not a legally valid approach to regulating materials that result from the management of hazardous waste.

(1)(b) EPA Response

While we agree that the mixture and derived-from rules capture some waste that may actually pose quite low hazard, we have implemented and continue to pursue approaches (such as today's revisions) to exclude such waste from full Subtitle C regulation. Nevertheless, these rules are a necessary component of cradle-to-grave waste management, to protect human health and the environment from unacceptable risks. EPA does not agree with comments that mixtures and derivatives do not meet the definition of ''hazardous waste'' in section 1004(5) of RCRA, nor do we agree that Congress did not intend these wastes to be regulated under Subtitle C of RCRA.

The definition of hazardous waste is a broad definition which encompasses solid wastes or combinations of solid wastes which, because of their ''quantity, concentration, or physical, chemical, or infectious characteristics may * * * pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed.'' Because they originate from waste that has already been determined to be hazardous, EPA has a reasonable basis to conclude that mixtures and derivatives could also pose a potential or present hazard to human health or the environment if not properly managed. The original listing of the waste already establishes the reasons, i.e., the ''quantity, concentration, or physical, chemical, or infectious characteristics'' for having identified the listed waste as hazardous. It is reasonable to conclude, without information to the contrary, that both mixtures and derivatives of such wastes may pose a substantial potential or present hazard to human health or the environment if not properly managed, and therefore fall under the definition of hazardous waste in RCRA section 1004(5).

Nothing in the section 1004(5) definition of hazardous waste requires EPA to prove that every member of a category of waste poses a hazard. In fact, many waste listings describe categories or ''classes'' of hazardous wastes because they cover a range of materials that are not identical in composition.

EPA also does not agree with commenters' assertion that wastes derived from the treatment, storage, or disposal of listed hazardous wastes in particular do not meet the section 1004(5) definition. As explained in section VII.A.2, residuals from the treatment of hazardous wastes can contain higher concentrations of the chemicals that led to the hazardous waste listing in the first place, and therefore may pose a present or potential hazard to human health or the environment if improperly managed. Indeed, the objective of many forms of treatment is precisely to isolate and collect hazardous constituents, often in concentrated form, for further management. For example, de-watering of waste, e.g., to make it easier to transport, is a form of treatment that often does not significantly change the character of the waste other than to leave it in a more compact and concentrated form. At the more aggressive end of the treatment spectrum, baghouses on hazardous waste combustion devices collect hazardous constituents that would otherwise be emitted to the air from the combustion process, creating dust that predictably contains any metals that were in the original wastes as well as products of incomplete combustion. Congress specifically expressed concern in RCRA about treatment residues created by federal and state pollution control laws, RCRA 1002(b)(3). The potential for persistent hazardous constituents in treatment residues and the Congressional findings in the RCRA statute support EPA's conclusion that residuals from the treatment, storage and disposal of listed hazardous waste may pose a substantial present or potential hazard.

EPA acknowledges that not all mixtures and derivatives pose hazards to human health and the environment (see, e.g. 57 FR 21451). There are mechanisms to address this fact, and we are continuing to pursue approaches to exempt low-risk wastes. First, RCRA and EPA regulations provide for the delisting of listed hazardous waste. RCRA 3001(f); 40 CFR 261.20 and 40 CFR 261.22. Since the federal delisting program took effect in 1980, EPA has excluded an estimated 45 million tons of waste, resulting in an estimated cumulative cost savings between $1.1 billion and $1.3 billion dollars (in 1999 dollars). In 2000 alone, we estimate cost savings of approximately $105.4 million.[10] In the 1995 HWIR proposal, EPA stressed the continued need for the delisting program, although we also acknowledged that it had not provided an efficient solution to the regulation of low-risk wastes. However, as discussed in Section VIII.C of this preamble, since the delisting program was delegated to the EPA Regions on October 10, 1995, a number of innovations have been adopted that have greatly improved the efficiency and effectiveness of the delisting program. EPA will continue these efforts and others in order to keep improving the delisting process.

In addition, as EPA has identified specific mixtures and derived-from wastes which no longer meet the definition of hazardous waste, and has therefore established a number of exclusions in 40 CFR 261.3. Currently, there are over a dozen types of hazardous waste mixtures and residuals excluded or conditionally exempted under section 261.3. See the ''Table of Revisions to 40 CFR 261.3'' in Section VII.C.2 of this notice for a list of these exclusions. This is in addition to other exclusions and conditional exclusions set forth in 40 CFR 261.4 as well in other parts of the hazardous waste regulations.

Furthermore, as discussed in Section VI of this notice, EPA is continuing work to develop exit levels for listed hazardous wastes, so that listed wastes can become ''delisted'' automatically, under a self-implementing procedure. But, as also explained in Section VI of this notice, that is a complex undertaking and, despite best efforts, EPA is not able at this time to propose a technically supported concentration-based exemption.[11] Also, as explained in Section X of this preamble, we are also investigating and will actively pursue other specific exemption proposals.

EPA continues to believe, as it did in 1980, that it would be virtually impossible to try to identify all possible waste mixtures and treated wastes and assess their hazards individually. EPA's rule reasonably retains jurisdiction over both broad classes and places the burden of proof on the regulated community to show that a particular waste has ceased to present a hazard.

Even if all listed hazardous waste mixtures and derivatives could not be

[10] U.S. EPA *Evaluation of Hazardous Waste Delisting Program,* December 2000.

[11] Congressional report language accompanying EPA's FY 2001 appropriations act directs EPA to submit the HWIR model to an independent peer review, and respond publicly to the findings of the peer review prior to using it to establish regulatory determinations. S. Rep. No. 106–410 at 90 (2000)). EPA is currently in the process of preparing for that peer review.

said to meet the statutory hazardous waste definition, at the very least it is reasonable and consistent with RCRA to *presume* that mixtures and derivatives of listed hazardous wastes remain hazardous under the definition, unless that presumption is rebutted through the delisting process. As discussed further in the next section, Congress established clear standards for hazardous waste identification, but did not speak specifically to the issue of the circumstances under which mixtures and derivatives of listed hazardous wastes should be regulated. Under these circumstances, EPA must interpret and implement the statute in a way that effectuates the statutory objectives. The mixture and derived-from rules are the only implementation approach that EPA is aware of at this time that effectuates the protective purposes of RCRA.

(2)(a) Comment: EPA Has Not Met the Requirements Under Section 3001, 42 U.S.C. 6921 and 40 CFR 261.10 and 261.11 for Designating Wastes as Hazardous

These commenters also disagreed with EPA's claim of authority under section 3001 (60 FR at 66348, 64 FR 63390). The commenters believed that EPA had not followed the required procedures or made the findings required by RCRA to identify ''mixture and derived-from wastes'' as hazardous. They noted that sections 3001(a) and (b) outline a two-step process for classifying wastes as hazardous. EPA first must specify criteria to determine if the waste is ''hazardous,'' 42 U.S.C. 6921(a), which is defined as presenting a substantial present or potential hazard to human health or the environment 42 U.S.C. 6904(5). Once the criteria are established—as they have been in 40 CFR 261.10 and 261.11—the commenters stated that EPA must apply these criteria to identify a characteristic of hazardous waste or to list a waste as hazardous. In these commenters' view, the mixture and derived-from rules identify a broad class of wastes as hazardous without regard to the criteria established by EPA. Also, they noted that the proposal did not discuss how mixtures and derived-from wastes pose a substantial present or potential threat to human health or the environment, nor did EPA discuss concentration levels, mobility, persistence, or any other objective factors of hazardousness that are listed in the statute or the regulations.

In addition, numerous commenters from industries, industry associations, utility companies and utility company associations disagreed with EPA identifying mixture and derived-from wastes as a ''class'' under 40 CFR 261.11 (60 FR at 66348, 64 FR at 66390). They believed that such identification required a finding that EPA had reason to believe that individual wastes within the class ''typically or frequently are hazardous'' under the definition at RCRA section 1004(5) (see 40 CFR 261.11(b)). Commenters noted that EPA's own longstanding practice was that, in a class-wide listing determination, ''typically or frequently'' meant that more than 50 percent of the samples taken from that class exhibited some or all of the 40 CFR 261.11(a) criteria (see, *e.g.,* 56 FR 48020, Sept. 23, 1991 and 45 FR 33114, May 19, 1980). The commenters stated that EPA historically has required that samples of a waste class contain concentrations of toxic constituents at 100–1000 times specified health-based numbers to be considered as posing a ''substantial hazard'' under 40 CFR 261.11(a)(3) (see, *e.g.,* 56 FR. 48018, Sept. 23, 1991 and 57 FR 21453, May 20, 1992). They noted that EPA generally requires that wastes typically and frequently contain toxic constituents at ''many times'' health-based levels and that such constituents be mobile and persistent. The current proposal made no reference to these prior practices, nor did it offer evidence that EPA collected or analyzed any samples or otherwise attempted to demonstrate that 50 percent—or any substantial percentage—of mixtures or treatment residues met any of the specific criteria of § 261.11(a). Also, they commented that the proposal offered nothing responsive to the 100–1000 times health-based numbers requirement. In addition, they noted that the class must have ''sufficient uniformity'' to apply the criteria in 40 CFR 261.11 (45 FR 33114). The commenters felt that it was obvious that the class of mixture and derived-from wastes was anything but uniform, a point admitted by EPA (45 FR 33095–96, ''the potential combinations of listed wastes and other wastes are infinite''). Therefore, the class did not have the requisite uniformity needed to be classified as hazardous.

(2)(b) EPA Response

EPA does not agree with comments that the Agency lacks statutory authority under RCRA Section 3001 for either the mixture rule or the derived-from rule. We have the statutory authority to promulgate these rules as part of the authority to ''develop and promulgate criteria for identifying the characteristics of hazardous waste and for listing hazardous waste.'' Among the criteria are the provisions of 40 CFR 261.3, which provide generally applicable criteria for the identification of hazardous waste. The mixture and derived-from rules are included in section 261.3(a)(2), which states that a solid waste is a hazardous waste if ''[i]t meets any of the following criteria.'' These rules ensure that listed hazardous wastes that are mixed with other wastes or treated in some fashion do not escape regulation as hazardous waste until EPA has made some determination that they no longer threaten human health or the environment. This section also includes the exclusions from the definition of hazardous waste, including those promulgated today, where EPA has made specific findings on the record that the excluded wastes are no longer hazardous under the criteria set forth in the exclusions. We will continue to pursue additional approaches to exempt low-risk wastes, as appropriate.

The commenters' position rests largely on the assumption that mixtures and derivatives of wastes are entirely new and distinct substances from the originally listed waste, leading to the apparent conclusion that EPA must make a separate, record-based finding of hazardousness for each of the infinite variations of mixtures and derivatives generated from the wastes EPA has listed. EPA disagrees. In upholding the ''contained-in policy,'' the U.S. Court of Appeals for the D.C. Circuit deferred to EPA's conclusion that a listed hazardous waste cannot be presumed to change character when it is mixed with an environmental medium. *Chemical Waste Management* v. *EPA,* 869 F.2d 1526, 1539 (1989). We believe that the same reasoning applies to the mixture rule. Similarly, as discussed in Section VII.A.2, waste management residuals can contain constituents from the originally listed waste at even higher concentrations than the original waste and, therefore, may pose a hazard. Indeed, EPA views the mixture and derived-from rules as applications of the general principle that ''a hazardous waste will remain a hazardous waste'' unless it is excluded through a regulatory process. 40 CFR 261.3(c)(1). *See Chemical Waste Management,* 869 F.2d at 1539 (upholding contained-in policy as interpretation of § 261.3(c)(1)).

EPA's approach is consistent with Congress' intention that hazardous waste be regulated for the long term under a comprehensive regulatory program. One of the findings upon which the 1976 RCRA legislation was based was that ''hazardous waste presents, in addition to the problems associated with nonhazardous solid waste, special dangers to health and requires a greater degree of regulation than does nonhazardous solid waste.''

Public Law No. 94–580, section 1002(5). With enactment of the Hazardous and Solid Waste Amendments (HSWA) in 1984, Public Law No. 98–616, Congress strengthened that provision and added three more findings: ''the placement of inadequate controls on hazardous waste management will result in substantial risks to human health and the environment; if hazardous waste management is improperly performed in the first instance, corrective action is likely to be expensive, complex , and time consuming; certain classes of land disposal facilities are not capable of assuring long-term containment of certain hazardous wastes * * *''. RCRA section 1002(b)(5), (6), (7). Similarly, when RCRA was enacted in 1976, Congress stated one of the objectives of the Act was ''regulating the treatment, storage, transportation, and disposal of hazardous wastes which have adverse effects on health and the environment.'' Public Law No. 94–580, 1003(a)(4). This provision too was replaced with a stronger statement by HSWA, that an object of the statute is ''*assuring* that hazardous waste management practices are conducted in a manner which protects human health and the environment.'' (Emphasis added.) RCRA 1003(a)(4). Further, HSWA added as national policy that hazardous waste ''should be treated, stored, or disposed of so as to minimize the present and future threat to human health and the environment.'' RCRA 1003(b). It is clear that Congress' principal objective under Subtitle C was protecting against threats to human health and the environment caused by hazardous waste. We acknowledge that such a goal does not imply that all mixtures and derived-from wastes must be regulated under full Subtitle C requirements, regardless of the potential risks they pose, but we believe that it is reasonable to regulate these wastes until it is shown that such wastes do not pose a hazard.

The D.C. Circuit Court of Appeals has characterized RCRA as establishing ''a ''cradle-to-grave'' regulatory structure overseeing the safe treatment, storage and disposal of hazardous waste.'' *United Technologies Corp.* v. *EPA,* 821 F.2d 714, 716 (D.C. Cir. 1987). The mixture and derived-from rules are a necessary part of this approach, by maintaining jurisdiction over mixtures and derivatives of already listed waste. Without these rules, as explained in Section VII.A.(2), the ''cradle-to-grave'' structure would have a major loophole, undermining the objectives of RCRA.

The delisting provision supports the mixture and derived-from rules as a means to address wastes that could pose unacceptable risks. In amending RCRA section 3001 in 1984, Congress enacted subsection (f) to require the Agency to ''consider factors (including additional constituents) other than those for which the waste was listed'' if the Agency ''has a reasonable basis to believe that such additional factors could cause the waste to be a hazardous waste.'' The legislative history shows that Congress was concerned that both as generated wastes and wastes resulting from treatment were exiting the Subtitle C system while still hazardous. ''The delisting process allows petitioners (usually individual hazardous waste generators or treatment facilities) the opportunity of showing that their wastes are significantly different—because of treatment, or because they are generated in a different process—from listed wastes of the same type. * * * Under this amendment, there would no longer be a risk that delisting a waste means releasing waste which may still be hazardous from regulation.'' H.R. Rep. No. 98–198 Part I (May 17, 1983). Congress made this change because it believed that under its previously existing delisting regulations, EPA allowed wastes that remained hazardous to exit the Subtitle C system. S. Rep. No. 98–284 (Oct. 28, 1983). The language and legislative history reflect Congress' assumption that treatment derivatives from listed wastes *would* remain subject to Subtitle C absent a delisting.

The land disposal restrictions (LDR) provisions of the statute further demonstrate that the mixture and derived-from rules are consistent with Congress' intent. The statute authorizes EPA to promulgate regulations establishing levels or methods of treatment, ''if any,'' that substantially diminish the toxicity or mobility of the hazardous waste, and provide that the waste may thereafter be disposed of in a land disposal facility that ''meets the requirements of [Subtitle C].'' RCRA section 3004(m). This section demonstrates two things. (1) Congress contemplated the possibility that there may be hazardous wastes for which no form of treatment would be adequate; and (2) Congress assumed that waste that was treated according to the promulgated treatment standards would nonetheless still be disposed of in a Subtitle C (hazardous waste) facility. This provision is at odds with the commenters' assertion that, once treated, a hazardous waste becomes a fundamentally different waste and is unregulated unless EPA undertakes a separate rulemaking to list the treated waste.

Other provisions of the 1984 amendments to RCRA relating to land disposal provide further support for the mixture and derived-from rules. See, e.g., section 3004(o) (establishing minimum technological requirements for land-based hazardous waste management units); section 3004(p) (establishing groundwater monitoring requirements); section 3005(c)(3) (requiring 5-year permit reviews for land disposal facilities); section 3005(e)(2), (3) (establishing interim status termination dates for certain non-compliant land disposal facilities); section 3005(i), (j) (establishing specific additional requirements for certain land-based units); section 1002(b)(7) (finding that certain classes of land disposal facilities are not capable of assuring long-term containment). Some commenters suggest that treatment residuals from listed hazardous wastes do not remain hazardous. We believe it is unlikely Congress would have created such stringent requirements for land disposal, if it intended for treatment residuals to escape Subtitle C regulation.

Taken to the extreme, the view that mixtures containing listed wastes should not be regulated as hazardous wastes would imply that most listed hazardous wastes, even if they reached a management unit in ''pure'' form, would cease to be hazardous once they entered the unit, since most units contain mixtures of different wastes. However, the RCRA statute clearly assumes that units would not only receive, but continue to contain, hazardous waste. See, e.g. section 3005(j)(11) and (12)(A), Moreover, the comprehensive requirements mandated for hazardous waste management units, including the technical standards of section 3004 and the permitting regime of section 3005, could be undermined if facilities receiving listed hazardous wastes could argue that their management units are subject to this scheme only as long as they are receiving the waste, but that they become exempt thereafter since the units do not contain hazardous waste.

Various provisions in RCRA appear to contemplate that at least some hazardous waste mixtures and derivatives would themselves be hazardous. See, e.g., section 3004(d)(2)(A), (B) (addressing liquid hazardous wastes, ''including free liquids associated with any solid or sludge,'' suggesting that liquid derivatives of hazardous waste would themselves be hazardous). Another example is the language in section 3005(b), which requires permit applicants to provide information regarding hazardous wastes and ''combinations of * * * hazardous waste and any other solid waste'' to be

managed at the permitted facility, as well as information regarding the site at which the ''products of treatment'' of hazardous waste will be managed.

Finally, the appropriations act provision that EPA is implementing with today's rule requires that the mixture and derived-from rules would continue in effect while EPA developed revisions to the regulations. Public Law No. 102–389, 106 Stat. 1571 (October 1992). That provision instructed EPA to ''promulgate revisions to paragraphs (a)(2)(iv) and (c)(2)(i) of 40 CFR 261.3, as reissued on March 3, 1992 * * *''. Congress expressed no intent that these rules be rescinded or replaced.

We also disagree with commenters' assertion that the mixture and derived-from rules violate the ''two-step process'' of section 3001(a) and (b) for hazardous waste identification. It is true that the statute requires EPA to promulgate criteria for hazardous waste identification (section 3001(a)) and, based on those criteria, to identify characteristics of hazardous waste and to list hazardous wastes (section 3001(b)). In general, EPA has done this in separate steps. *See* 40 CFR part 261, Subpart B (criteria) and Subparts C and D (characteristics and lists). However, the statute does not preclude EPA from creating self-implementing criteria, as EPA has done with the mixture and derived-from rules. EPA does not interpret 3001(b) as imposing an obligation on EPA to undertake a separate waste identification rulemaking step following the development of self-implementing criteria. Alternatively, the mixture and derived-from rules could be viewed as a simultaneous exercise of EPA's 3001(a) and 3001(b) authority. Nothing in the statute prevents EPA from simultaneously, in combined regulations, establishing the criteria for waste identification, and identifying the characteristics of hazardous waste and listing waste.

We agree with commenters who point out that EPA has not used the class listing process under 40 CFR 261.11(b) to list mixtures and derived-from wastes as a class. However EPA does not agree that mixtures and derivatives must be individually listed or identified as hazardous wastes before being subject to Subtitle C jurisdiction. As previously stated, mixtures and derivatives are identified as hazardous waste by virtue of containing or coming from wastes that have been listed pursuant to the criteria in 40 CFR 261.11. EPA cannot presume that the hazardous constituents that are the basis of the original listing are always eliminated or rendered nontoxic simply because a waste is mixed with other wastes or managed in some fashion.

(3)(a) Comment: EPA Has No Authority Under Sections 3002–3004 of RCRA To Designate Wastes as Hazardous

Several commenters from industries, industry associations, utility companies, utility company associations and waste management companies also disagreed with EPA's claim of authority under sections 3002–3004 of RCRA. They argued that these sections of RCRA provide for hazardous waste management standards for generators, transporters, and treatment, storage and disposal facilities, not for identifying hazardous wastes. Instead, that role is unambiguously carried out by section 3001. 42 U.S.C. 6921, and in previous promulgations and in litigation, EPA relied primarily on section 3001 to justify the mixture and derived-from rules.

(3)(b) EPA Response

In citing sections 3002–3004 in the discussion of EPA's statutory authority, we did not intend to imply that these sections by themselves provide statutory authority for the mixture and derived-from rules. Rather, our intent was to explain that these sections inform the process of identifying hazardous waste under section 3001 because the purpose of identifying a solid waste as hazardous is to ensure that it is managed properly.

The statute directs EPA to regulate hazardous waste generators (section 3002(a)), hazardous waste transporters (section 3003(a)), and hazardous waste treatment, storage, and disposal facilities (section 3004(a)) ''as necessary to protect human health and the environment.'' It is our view that this informs the decision of when waste should be identified as hazardous and therefore subject to the regulatory requirements of Subtitle C . In deciding whether to identify a waste as hazardous under section 3001, EPA considers whether Subtitle C controls on the waste are necessary to protect human health and the environment. We have therefore consistently interpreted section 3001 to give us broad flexibility in fashioning criteria for hazardous wastes to enter or exit the Subtitle C regulatory system. See, *Military Toxics Project* v. *EPA,* 146 F.3d 948, 958 (D.C. Cir. 1998). As discussed above, this interpretation is consistent with the statutory purpose of protecting human health and environment by establishing a comprehensive hazardous waste regulatory program. (RCRA sections 1002, 1003).

In addition to providing the context in which the determination of whether a waste ''should be subject to the requirements of Subtitle C,'' sections 3002–3004 allow us to continue to impose requirements on waste handlers until wastes have ''cease[d] to pose a hazard to the public.'' *Shell Oil Co.* v. *EPA,* 959 F.2d 741, 754 (D.C. Cir. 1991). See also *Chemical Manufacturers Assoc.* v. *EPA,* 919 F.2d 158, 162–65 (D.C. Cir. 1990) (EPA may regulate the disposal of nonhazardous wastes in a hazardous waste impoundment under section 3004) and *Chemical Waste Management, Inc.* v. *EPA,* 976 F.2d 2, 8, 13–14 (D.C. Cir. 1992) (EPA may require further treatment of wastes under section 3004 even though they cease to exhibit a hazardous characteristic). Without the mixture and derived-from rules, EPA could not effectively carry out its obligation under sections 3002–3004 to protect human health and the environment. Thus, in addition to the specific authority of section 3001, the mixture and derived-from rules are authorized under section 2002(a)(1), which empowers the Administrator to ''prescribe * * * such regulations as are necessary to carry out his functions'' under RCRA.

C. Regulatory Cost of the Mixture and Derived-From Rules

(1) Summary of Comments on the Regulatory Cost of the Mixture and Derived-From Rules

EPA received comments from five commenters in response to both the 1995 and the 1999 HWIR proposals concerning the regulatory cost of the mixture and derived-from rules. Of those comments, four were received from industries, and one was from an industry association. The commenters generally argued that the rules constituted over-regulation of low-risk wastes causing high costs and heavy burdens with little benefit to human health and the environment. A summary of the specific issues raised by commenters is provided below.

One industry commenter argued that the rules have added significant costs to the operation of manufacturing facilities throughout the nation, while providing insignificant benefits to human health and the environment. The commenter noted that the generation of large quantities of hazardous wastewaters based solely on the practice of efficient, centralized wastewater treatment has led the company to evaluate the segregation of hazardous and non-hazardous wastewaters, to prevent the attachment of a ''hazardous'' label to those non-hazardous wastewaters. Such a segregation would require a second treatment facility and much re-piping,

with the net result that millions of dollars would be expended and there would be no improvement in the wastewaters ultimately discharged to the environment through two, rather than one, discharge points. All that would be achieved is an apparent reduction in hazardous waste generation which does not, in reality, represent a decrease in waste generation, treatment or discharge, but rather a reporting game and artificial waste minimization driven by EPA requirements. It is this kind of ''game'' that compromises the credibility of both EPA and the regulated community and imposes a significant burden on the regulated community.

Another industry commenter noted that managing the residuals as if they were listed hazardous waste was significantly more expensive than managing the waste in accordance with solid waste regulations. For example, in 1995 transportation and disposal of ash from a hazardous solids incinerator cost approximately $185,000. In comparison, the ash could be managed in a state permitted Subtitle D landfill as non-hazardous waste for about $25,000. Another industry stated that these rules have resulted in significant expense that has diverted resources away from greater environmental opportunities.

One association commenter stated that the rules frequently cause waste codes to be carried through and applied to wastes that are fundamentally different from the original waste considered in the development of the listing classification. The commenter noted that there are many instances in which the risk associated with the original listed waste simply does not carry through in the same way, and that the composition and nature of any risk posed by these materials often bears little or no relationship to the original listed waste. Specific examples cited include (1) Wastewaters where most of the arsenic has been precipitated and removed, (2) debris from hazardous waste refractories undergoing repair, and (3) wastewaters that had received ethylene oxide as part of an emergency incident. The costs and impacts of this automatic waste-code carry-through are quite significant. Much of the industry operates through smaller ''batch'' processes, while the regulations are crafted for a continuous manufacturing process. And, in many operations, delisting the mixture is not an option, as the facility can only store the mixture on-site for 90 days, which is not enough time for a delisting.

An industry association also stated that the costs imposed by the rules from a number of member companies are easy to identify: on-site storage costs, paperwork and administrative costs, higher shipping and transportation costs, and higher treatment, storage and disposal costs. And, these are the same types of costs analyzed and tallied by EPA in documenting the cost savings it attributes to the modified exemption for hazardous wastes listed solely for a characteristic of ignitability, corrosivity and/or reactivity. The commenter also stated that another significant cost of the current regulatory regime was the extra time and effort required to evaluate and apply the rules in the real world. Even after 20 years, facilities still have difficulty evaluating when, whether and why certain waste streams must be managed as Subtitle C hazardous wastes under this approach.

2. Response to Comments on Regulatory Cost of the Mixture and Derived-From Rules

We agree that the mixture and derived-from rules have captured wastes that could safely be managed outside of RCRA Subtitle C regulation. As explained below, we have addressed specific cases of such over-regulation through targeted rulemaking in the past, and we will continue to explore options for exempting wastes that do not warrant Subtitle C regulation. However, we do not agree that hazardous waste regulation of mixture and derived-from waste provides no additional protection of human health and the environment. For example, as we discuss in Section VII.A, wastewaters prior to discharge may contain constituents at levels that could pose unacceptable risks if they are mismanaged. Furthermore, the mixture and derived-from rules address cross-media transfer of persistent hazardous chemicals from the wastewater to the treatment sludge.

One way of reducing the regulatory burden available to individual waste generators is the delisting process. Generators have the option of petitioning the Agency under 40 CFR 260.20 and 40 CFR 260.22 to exclude their wastes from the lists of hazardous wastes in subpart D of part 261 if they believe those wastes no longer pose risk to human health and the environment. Since the delisting program was delegated to the EPA Regions on October 10, 1995, a number of innovations have been adopted that have greatly improved the efficiency and effectiveness of the delisting program. In particular, EPA Region VI's award-winning program has created a process that produces a decision within an average of 180 days, provides a streamlined application checklist, proactively coordinates with State personnel, and includes a user-friendly, stand-alone software program that produces an updated, state-of-the art assessment of risks associated with delisting a petitioned waste. In addition, EPA and the applicant now work together to develop an initial application that can be approved without the need for major revisions, which is a major factor in reducing the processing time. EPA will continue these efforts and others in order to keep improving the delisting process. Since 1980, EPA has excluded an estimated 45 million tons of waste, resulting in an estimated cumulative cost savings between $1.1 billion and $1.3 billion (in 1999 dollars). In 2000 alone, we estimate cost savings of approximately $105.4 million.[12]

In addition, EPA has taken steps since the mixture and derived-from rules were promulgated in 1980 to further reduce the scope, and therefore the cost, of these rules when appropriate. As one commenter to the 1999 proposal pointed out, eighteen months after the original mixture and derived from rules, EPA promulgated the first of several exclusions for low-risk waste from the definition of hazardous waste. Over the past twenty years, EPA has developed exclusions and/or tailored regulations to reduce the regulatory cost for more than a dozen types of hazardous waste mixtures and residuals. (see table below)

[12] U.S. EPA *Evaluation of Hazardous Waste Delisting Program,* December 2000.

REVISIONS TO 40 CFR 261.3 THAT HAVE REDUCED THE REGULATORY COST OF THE MIXTURE AND DERIVED-FROM RULES

CFR citation	Hazardous waste(s) affected	Year promulgated (FR citation)
40 CFR 261.3(a)(2)(iv)(A) and (B)	Certain solvents managed in wastewater treatment systems.	1981 (46 FR 56582)
40 CFR 261.3(a)(2)(iv)(C)	Certain petroleum wastes discharged to the refinery oil recovery sewer.	1981 (46 FR 56582) Additional wastes added in 1998 (63 FR 42184)
40 CFR 261.3(a)(2)(iv)(D)	De minimis losses of commercial chemical product.	1981 (46 FR 56582)
40 CFR 261.3(a)(2)(iv)(E)	Certain laboratory wastewaters	1981 (46 FR 56582)
40 CFR 261.3(a)(2)(iv)(F) and (G)	Certain carbamate wastewaters	1995 (60 FR 7848)
40 CFR 261.3(a)(2)(v)	Used oil	1992 (57 FR 41611)
40 CFR 261.3(c)(2)(ii)(A)	Certain waste pickle liquor sludges	1984 (49 FR 23284)
40 CFR 261.39(c)(2)(ii)(B)	Wastes derived from burning certain oil-bearing wastes as fuel.	1987 (52 FR 11819)
40 CFR 261.3(c)(2)(ii)(C)	Wastes derived from high temperature metals recovery of certain hazardous wastes.	1992 (57 FR 37263)
40 CFR 261.3(c)(2)(ii)(D)	Certain types of biological treatment sludge	1995 (60 FR 7848)
40 CFR 261.3(c)(2)(ii)(E)	Certain types of catalyst inert support media	1998 (63 FR 42184)
40 CFR 261.3(f)	Certain types of debris contaminated with a hazardous waste.	1992 (57 FR 37264)

In each of these revisions to 40 CFR 261.3, EPA considered the case-specific circumstances of the waste affected and, through the formal rulemaking process, determined that these wastes merited special consideration under the hazardous waste identification rules. In many cases, these wastes still warranted enough concern to impose specific management and other implementation requirements. For example, the solvent exclusions in 40 CFR 261.3(a)(2)(iv)(A) and (B) require that (1) these wastes are managed in a system the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act, and (2) the total weekly usage of these solvents divided by the average weekly flow of the wastewater into the treatment works would not exceed a specific regulatory level (either 1 ppm or 25 ppm).

Under today's final rule, EPA has continued the effort to reduce the burden from the mixture and derived-from rules where appropriate by excluding wastes listed solely for ignitability, corrosivity, and/or reactivity, once the waste no longer exhibits any of the hazardous waste characteristics (40 CFR 261.3(g)). We are also finalizing a conditional exemption for mixed waste from the mixture and derived-from rules, provided the mixed waste is handled in accordance with 40 CFR part 266, Subpart N. (40 CFR 261.3(h))

Finally, over the past twenty years EPA has promulgated numerous rules establishing exclusions or conditional exemptions from the solid and hazardous waste definitions, and from regulatory requirements for particular wastes and management practices. These exemptions are part of EPA's overall effort to avoid unnecessary regulation of waste.

EPA plans to continue work on other types of hazardous waste exemptions, including the additional targeted exemptions for certain categories of wastes and management practices, and the concentration-based exemptions (HWIR exemption) discussed in the November 19, 1999 proposal. We also plan to continue on-going efforts to streamline the existing delisting program.

In regard to the specific examples of over-regulation claimed by one commenter (see comment # WH2P–00035, page 10), it is difficult for EPA to fully evaluate these cases without more specific data. For example, in the case of wastewaters where most of the arsenic has been precipitated and removed, it is not clear whether there are any other hazardous constituents of concern in the treatment sludge, and whether the residual arsenic might still pose a risk (depending on waste volume and management method). In the case of contaminated bricks from hazardous waste refractories undergoing repair, it would appear that the exclusion for debris [40 CFR 261.3(f)] could address this concern. Finally, for wastewaters that had received ethylene oxide as part of an emergency incident, while it is true that ethylene oxide eventually breaks down to ethylene glycol, this reaction is not instantaneous. When released into water, ethylene oxide will primarily be lost by three processes: volatilization, hydrolysis and biodegradation. The half-lives of these reactions range from a few hours to up to 20 days.[13] Ethylene oxide itself is toxic, and if these wastewaters were automatically considered non-hazardous, they could present a substantial risk, depending on actual concentrations and exposure patterns. Both low level chronic exposure and acute high levels of ethylene oxide can lead to a broad spectrum of neurological effects. Also, inhalation studies have shown that exposure to ethylene oxide can result in a wide range of carcinogenic effects, and NIOSH considers ethylene oxide to be a potential occupational carcinogen.[14] Therefore, EPA does not agree that such a mixture should be automatically excluded from hazardous waste regulation. More importantly, since the purpose of this rulemaking is not to evaluate individual wastestreams, EPA does not believe this example demonstrates that the mixture and derived-from rules themselves are unnecessary as a general matter.

EPA understands that the RCRA regulations, in particular the waste identification regulations, can be difficult to understand. We have attempted to use plain language in drafting today's revised regulatory language, and will continue to make regulatory language more accessible to readers in the future. In addition, we believe that the mixture and derived-from rules are more straightforward than the alternative of having to evaluate each combination and permutation of

[13] Agency for Toxic Substances and Disease Registry. (1990). Draft Toxicological Profile for Ethylene Oxide.

[14] National Institute for Occupational Safety and Health. (1989). Ethylene Oxide Sterilizers in Health Care Facilities, Engineering Controls and Work Place Practices. DHHS (NIOSH) No. 89–115.

listed waste on a case-by-case basis. We believe this alternative would create uncertainty for the regulated community, state agencies, the public, and the courts, as various stakeholders press conflicting views as to whether a particular waste does or does not continue to meet the listing description.

VIII. What Were the Major Comments on the Revision to 40 CFR 261.3 To Exclude Wastes Listed Solely for Ignitability, Corrosivity, and/or Reactivity, and How Has EPA Responded to Them?

Most commenters generally supported revisions to 40 CFR 261.3 to various degrees. Chemical-producing industries as well as Federal government agencies who commented were unanimous in support. Most states supported the proposed revisions to the rules to varying degrees. Below are summaries of the major comment issue areas for this proposed exclusion. For more detailed comment responses, please see *Hazardous Waste Identification Rule: Revisions to the Mixture and Derived-From Rules Response to Comments Document.*

A. Eligibility of Waste Listed for the Toxicity Characteristic

(1) Comments on Eligibility of Waste Listed for the Toxicity Characteristic

EPA received comments from 12 commenters in response to both the 1995 and the 1999 proposals concerning inclusion of wastes listed solely for the toxicity characteristic in the expanded exclusion. Of those comments, four were received from industry, two were from industry associations, four were from utility companies or utility company associations, one was from a Federal Government Agency, and one was from an industry consultant. A summary of the specific issues raised by commenters is provided below.

While supporting the proposed exclusion, these commenters urged EPA to modify the proposal so the exclusion would apply to wastes listed due to any of the four characteristics, including the toxicity characteristic. Commenters asserted that it was not logical to limit the exclusion for derived-from wastes to three of the four characteristics, regardless of the fact that no listed wastes are listed solely on the basis of the toxicity characteristic. One commenter stated that it appears as if EPA suspects that wastes containing TC constituents below the toxicity characteristic are not really safe. A few commenters noted that in the future, wastes that may be listed solely for the toxicity characteristic should be eligible for the exclusion. Another commenter also noted that the proposed regulatory language does not provide for any additional hazardous waste characteristics that might be promulgated in the future. Commenters suggested that EPA replace references to ignitability, corrosivity, and reactivity in the proposed regulatory language for 40 CFR 261.3(g) with references to any characteristic of hazardous waste identified in subpart C, reflecting the approach and language used in the current mixture rule.

Several commenters noted that EPA did not offer an explanation for omitting wastes listed solely because they exhibit the characteristic of toxicity from eligibility for the proposed exclusions that would be granted by 40 CFR 261.3(g). EPA did explain that, since no listings to date have been based on the toxicity characteristic, EPA was proposing to limit the new revision to the derived-from rule to wastes listed because they exhibit only the characteristics of ignitability, corrosivity, or reactivity. However, the commenters believed it is confusing to give no explanation for proposing the elimination of an existing exclusion from the mixture rule, even if no wastes now exist that are eligible for the exclusion. Therefore, the commenters recommended that the preamble for the final rule contain such an explanation.

(2) EPA Response to Comments on the Eligibility of Waste Listed for the Toxicity Characteristic

EPA does not agree that wastes listed solely for the toxicity characteristic (TC) should be eligible for the exclusion. As we discussed in the 1995 HWIR proposal, wastes may still pose some risk concerns even when TC constituents are present below TC levels (60 FR 66369, December 21, 1995).

The hazards that the TC regulation addresses, carcinogenicity and chronic chemical toxicity via contaminated groundwater/drinking water, have fewer clear thresholds than the other characteristics. Wastes that exhibit the characteristics of ignitability, corrosivity or reactivity typically pose acute hazards which can be addressed by application of appropriate treatment to decharacterize the waste. For example, ignitable liquid waste or waste chemical oxidizers can be treated by combustion, and the ash treatment residue poses no ignitability threat to landfills. Similarly, strong acid or basic wastes, if effectively neutralized, generate residues that pose no threat of skin damage. Waste explosives or highly reactive chemicals that are denatured or reacted-out under controlled conditions also generate residues that pose no explosion or reaction threat.

The TC chemicals have less clear thresholds below which they pose little or no hazard for several reasons. Toxic chemicals pose a risk that is typically dependent on a range of factors, and assessment of hazard from toxicity is much more complex, and involves many more variables, than assessment of hazard from the other three characteristics. A waste that does not exhibit the toxicity characteristic for a particular chemical may nonetheless pose a substantial hazard depending on such factors as the volume of the waste, the exposure route being assessed, and the amount of dilution and attenuation that is assumed prior to exposure. These factors, along with others, are taken into account in making hazardous waste listing determinations based on toxicity. See 40 CFR 261.11((a)(3). In addition, as persistent chemicals move through the environment, they can accumulate, posing long-term chronic risks even at levels below those set for the toxicity characteristic. Thus, the toxicity characteristic is not designed to capture all of the wastes that might present a substantial hazard for the TC constituents. Rather, the TC is designed to capture wastes that may pose a substantial hazard, without the need to conduct a waste-specific risk assessment. In fact, when EPA promulgated the TC regulation, we stated that the regulation is intended to identify ''* * * broad classes of wastes which are clearly hazardous * * *''. We also noted that ''wastes that do not exhibit the hazardous waste characteristics are not necessarily non-hazardous.'' (55 FR 11799, March 29, 1990). In identifying TC hazardous wastes as ''clearly hazardous'' the agency was identifying a universe of wastes that it believed may pose high enough risk so as to *always* require classification as hazardous. In noting that non-TC wastes are not necessarily non-hazardous, the agency both recognized the non-threshold (i.e., continuous) nature of TC constituent risks, and recognized that wastes falling just below the TC values may pose risks that are just below a ''clearly hazardous'' designation, and which may sometimes warrant classification as hazardous. EPA has in fact listed wastes based on toxicity where the waste did not fail the TCLP for the constituent of concern. (see, for example, the final petroleum waste listing, 63 FR 42154 (August 6, 1998)).

EPA's decision to not exclude wastes listed solely for the TC could potentially affect the regulation of certain inorganic wastes that EPA has recently proposed

to list as hazardous. (65 FR 55684, September 14, 2000). The issue had been purely theoretical before that point because no waste had ever been listed for the TC. In the inorganics listing determination proposal, however, EPA proposed to list baghouse filters from antimony oxide production for the TC. Despite the fact these wastes fail the TC for lead and arsenic, they are not always being managed as Subtitle C hazardous waste, nor are these wastes always treated to the appropriate LDR standards. By listing them, we would clarify their regulatory status. In the preamble to the inorganics listing proposal, EPA noted that proposed revisions to the mixture and derived-from rules did not include an exclusion for wastes listed for the TC (65 FR 55705). EPA did not receive any public comments in response to this discussion in the Inorganics Listing proposal.

B. Toxicity of Wastes Listed for Ignitability, Corrosivity, and/or Reactivity

(1) Comments on Toxicity of Wastes Listed for Ignitability, Corrosivity, and/or Reactivity

EPA received two comments in response to the 1999 proposal concerning the potential toxicity of waste under the proposed expanded exclusion to the mixture and derived-from rules. One was from a waste management association and one from a State agency. A summary of the specific issues raised by commenters is provided below.

The commenters believed that EPA must evaluate the properties carefully, especially the toxicity, of the 29 compounds proposed to be excluded. They assert that some of these wastes are acutely hazardous and merit a thorough review to ensure that the exclusion is appropriate. The waste management association noted that EPA had not performed an evaluation of the negative environmental impact associated with eliminating these codes. Ignitable, corrosive, and reactive wastes could contain substantial levels of toxic constituents that could be low enough not to exhibit a characteristic of ignitability, corrosivity or reactivity, yet high enough to cause environmental damage. One damage case or Superfund site can cause damages far in excess of the $4.6 million estimated savings predicted by EPA. The waste management association further argued that EPA's Hazardous Waste Characteristics Scoping Study (Nov. 15, 1996) identified numerous gaps in the current RCRA identification of characteristic wastes. The commenter believed that gaps were so serious that EPA should not be proposing to eliminate any listing that was based on a characteristic until the deficiencies identified in the 1996 Scoping Study were addressed fully. Also, EPA must not eliminate any listing once the characteristic is removed, because the underlying hazardous constituent still represents a substantial threat even after LDR treatment.

(2) EPA Response to Comments on Toxicity of Wastes Listed for Ignitability, Corrosivity, and/or Reactivity

EPA continues to believe that wastes that were listed only for the characteristics of ignitability, corrosivity, and reactivity should become excluded once they no longer exhibit any characteristic, including the toxicity characteristic. While it is true that these wastes could contain constituents that were not considered in the original listing determination, EPA does not believe this possibility, without information demonstrating some particularized basis for concern, warrants continued regulation of the waste under Subtitle C once it is decharacterized. This is because of the unique nature of listings based on the three characteristics in question. (See the discussion, in Section VIII.A. above, regarding the differences between wastes listed for the toxicity characteristic and wastes listed for the characteristics of ignitability, corrosivity and reactivity). These listings are unlike toxicity-based listings, which involve development of detailed risk assessments and consideration of a range of technical factors. See 40 CFR 261.11(a)(3). In contrast, the basis for listings based on one of these characteristics is simply that the waste exhibits the relevant characteristic (see 40 CFR 261.11(a)(1)).

Listings that are based on 40 CFR 261.11(a) criteria increase the clarity and certainty of the applicability of the Subtitle C system to these wastes. By listing the waste, EPA clarifies that it is hazardous without the need for a site-by-site demonstration that the waste in fact exhibits the characteristic, thereby simplifying implementation and enforcement regarding these wastes. EPA does not believe these listings should alter the basic principle that a characteristic waste should not be regulated as hazardous if it no longer exhibits the characteristic. Consistent with this approach, EPA provided in 1981 an exemption from the mixture rule for wastes listed for one of these characteristics that no longer exhibits the characteristic (see 46 FR 56582, November 17, 1981). Today's rule provides a conforming change to the derived-from rule, which, because the 1981 rule only focused on mixtures, does not currently contain a comparable exemption. (see 60 FR 66349, December 21, 1995). The same rationale also supports the inclusion of as-generated waste in today's rule (although, since these wastes were listed solely on the basis of exhibiting a characteristic, EPA expects these wastes to exhibit the characteristic at the point of generation). Thus, EPA does not believe that the possibility that these wastes may contain additional hazardous constituents not considered in the original listing justifies continued regulation of the waste.

As stated earlier, EPA already excludes mixtures of these kinds of wastes, once the basis for listing these wastes has been removed. In addition, unlisted characteristic waste becomes non-hazardous when it ceases to be characteristic. Expanding the exclusion to non-mixtures that similarly do not exhibit the characteristic (particularly treatment residuals) would still be protective of human health and the environment. If there is any information that indicates that the original listing determination should have been based on toxicity risks, then the proper remedy is to amend the basis for listing the waste . The public can petition EPA to reconsider the basis for listing any such waste .

In regard to the toxicity of the listed chemicals themselves, EPA has examined the most recent toxicity data in IRIS concerning the chemicals in the 29 wastes listed solely for a characteristic, and does not believe these chemicals present a particular basis for concern. We found that fourteen of the chemicals have RfD's or RfC's available in IRIS. (This includes the eight F003 solvents discussed below—see Section VIII.C. of the preamble). EPA used these RfCs and RfDs to calculate conservative screening-level health-based numbers (HBN) for those chemicals, and compared them to the relevant Universal Treatment Standards (UTS) these chemicals would need to meet under Land Disposal Restrictions, in those cases in which numerical standards were available. For most of those chemicals, the relevant UTS standards are much *lower* than the conservative health-based numbers calculated for water and soil ingestion pathways. As discussed in Section VIII.C below, the level for one of the chemicals, n-butyl alcohol, is not significantly higher. Therefore EPA believes that excluding wastes that have

been listed solely for a characteristic of ignitability, corrosivity, or reactivity, when they have been decharacterized (i.e., exhibit none of the four hazardous waste characteristics), is protective of human health and the environment. However, in the future, if additional information becomes available, we may decide to reconsider the basis of listing for one or more of these wastes.

C. Eligibility of F003 Solvents for This Exclusion

(1) Comments on Eligibility of F003 Solvents for This Exclusion

EPA received comments from 17 commenters in response to the 1995 and 1999 proposals concerning the inclusion of F003 solvents in the expanded exclusion to the mixture and derived-from rules. Of those comments, five were from State Agencies, three were from utility companies or associations, four were from industries, two were from Federal Agencies, two were from waste management associations, and one was from an industry association. A summary of the specific issues raised by commenters is provided below.

About two-thirds of the commenters supported including F003 wastes in the proposed exclusion. However, one industry noted that this proposed revision would have little effect beyond eliminating the derived-from rule for a small number of wastes. Many commenters noted that if the solvent contained, before use, one or more of the toxic solvents specifically listed in F001, F002, F004, or F005, at 10 percent or more by volume, it would be regulated as that waste code. Therefore a blanket exclusion for all categories of F003 is appropriate because toxics, when present, will be addressed under other applicable waste codes. One State and two Federal commenters stated that any toxic solvents contained in an F003 spent solvent blend would not escape proper treatment because of the land disposal restrictions (LDR) program. They also noted that solvent mixtures/blends meeting the F003 listing description and containing a certain percentage of toxic solvents also will carry the waste code F001, F002, F004 and/or F005 and therefore, be subject to treatment requirements under the LDR program.

Four commenters did not support including F003 in the proposed exclusion. They argued that the listing description for F003 contains a reference to other solvent wastes (F001, F002, F004, or F005) that are listed for toxicity. Therefore, ignitability was not the only characteristic of concern. In addition, certain F003 solvents themselves may also be toxic, upon consideration of new data developed since 1985. Specifically, the commenter cited a National Toxicology Program, National Institutes of Environmental Health Sciences, Management Statistics Report dated January, 1999 on the carcinogenicity of ethylbenzene (an F003 waste).

In addition, one State noted that in the April 30, 1992 proposal to revise the Hazardous Waste Identification Rule, EPA was considering a separate rulemaking to modify the basis for listing F003 and other wastes listed solely for a characteristic because of concerns about toxicity and/or carcinogenicity. If the chemicals in these wastes are either toxic or carcinogenic according to EPA's own determinations, they should be identified as such in 40 CFR part 261, subpart D.

Commenters also argued that F003 wastes ''often'' contain toxic constituents other than the solvents themselves. One commenter noted that EPA states in 50 FR 53317 (December 31, 1985) ''In fact, solvents become spent when they have become contaminated with other materials, (i.e., heavy metals or toxic organic compounds) and must be disposed, reprocessed or reclaimed.'' EPA further states '' * * * since spent solvents reasonably are likely to contain other toxicants at levels of regulatory concern, and since we have not evaluated those wastes for these toxicants, we believe it inappropriate to remove these solvents from the hazardous waste list.'' In addition, the waste management association commenter argued that as part of the economic impact analysis associated with the 1999 HWIR proposal, there have been 51 different hazardous constituents associated with the F003 waste code. The commenter believed that if EPA lacked toxicological data on any of these constituents, then F003 could not be eligible for the exclusion once the ignitability characteristic was removed and the waste exhibited no other hazardous waste characteristics.

(2) Response to Comments on Eligibility of F003 Solvents for This Exclusion

EPA agrees with those comments that support F003 waste remaining eligible for this exclusion. Because F003 waste that contains 10% or more of the other F-listed solvents (F001, F002, F004, and F005) would also bear those waste codes, such wastes would not be eligible for the exclusion. The exclusions applies only to F003 wastes that do not contain 10% or more of these other solvents.

EPA is aware of the recent carcinogenicity study (referenced in the public comments) that was performed by the National Toxicology Program on ethylbenzene. Ethylbenzene is included in the Agency's on-going Integrated Risk Information System (IRIS) project (63 FR 68285, December 10, 1998). A focus of the IRIS project is to update selected chemical assessments by incorporating new scientific information and methods. The IRIS project consists of a process that determines the Agency's consensus position on the potential adverse health effects that may result from chronic or lifetime exposures to environmental contaminants. The carcinogenicity study on ethylbenzene, together with any other recent toxicological data, will be evaluated by the Agency as part of this process. Until that evaluation is completed, EPA does not believe it is appropriate to draw regulatory conclusions based on the referenced study.

With respect to the commenters' more generalized concerns about the possibility of toxic constituents in F003 waste, as explained above, EPA does not believe this possibility justifies the continued regulation of a waste that was listed for the sole reason that it is ignitable, where the waste is no longer ignitable and exhibits no other hazardous waste characteristic. F003 waste is unique among the listed solvents: the other listed solvents were listed on the basis of toxicity. F005 solvents were listed for both ignitability and toxicity. In fact, EPA decided to move two listed solvents (methanol and methyl isobutyl ketone) that were originally proposed to be regulated under the F005 listing to the F003 listing because EPA determined that they did not pose a significant toxicity risk, although they are highly flammable (45 FR 74884, November 12, 1980).

Since then, EPA has analyzed the toxicity risks that might be posed by F003 solvents when de-characterized. The Agency has researched the most recent data concerning the F003 solvents in the IRIS data base. None of the solvents in the listing are classified as carcinogens, but eight of the nine possess reference concentrations (RfC) and oral reference doses (RfD) for non-cancer risk. EPA used these RfCs and RfDs to calculate conservative screening-level health-based numbers (HBN) for those chemicals, and compared them to the relevant Universal Treatment Standards (UTS) these chemicals would need to meet under Land Disposal Restrictions. For seven of the eight chemicals (including ethylbenzene) the relevant UTS standards are much *lower* than the

conservative health-based numbers calculated for water and soil ingestion pathways. The health-based number for the remaining chemical, n-butyl alcohol, is only slightly lower than the UTS standard (3.3 mg/L water ingestion HBN vs 5.6 mg/L wastewater UTS).[15] Given the fact that the health-based numbers are conservative screening numbers, EPA does not believe this difference is of concern. Therefore EPA remains confident that excluding ignitable F003 solvents, when they have been decharacterized, is protective of human health and the environment.

Commenters also claimed that F003 solvents, because they are general use solvents, can carry with them various constituents other than the solvents themselves, and that this was a reason for listing the F003 solvents in the first place (see 50 FR 53317, December 31, 1985). EPA acknowledges that in the 1985 solvents final rule, we noted that additional toxic contaminants would likely be present in the spent solvent. We also stated, however, that we did not evaluate F003 wastes for other toxic constituents *that could be present* at levels of regulatory concern. Therefore, toxicity was a not a basis for listing F003 waste.

When the F003 listing was finalized in 1985, because it was listed solely for ignitability, mixtures of F003 waste and solid waste were eligible for the exemption for mixtures of waste listed for a characteristic that no longer exhibit any characteristic of hazardous waste. Expanding the exclusion to non-mixtures that similarly do not exhibit any characteristic would still be protective of human health and the environment. We do not think it makes sense to continue the anomaly of retaining regulation for non-mixtures of F003 wastes based on toxicity concerns when we have no record basis to support regulation for toxicity. Today's exclusion is also consistent with the approach taken in EPA's decision not to list 14 spent solvent wastes, in which EPA declined to focus on any toxic constituents other than those in the solvents themselves, despite the likelihood of other toxic constituents in the spent solvent waste. (63 FR 64372 (Nov. 19, 1998).[16]

[15] For the water ingestion pathway, EPA assumed a 71.8 kg adult with a 2.3 L/day intake (90th percentile), 350 days/yr frequency. For the soil ingestion pathway, EPA assumed a 16.6 kg child with 400 mg/day intake (upper percentile), 350 days/yr frequency. For more information, please see U.S. EPA *Analysis of Chemicals in Wastes Listed for Ignitability, Corrosivity, or Reactivity* memorandum to the docket from David Cozzie, Office of Solid Waste, November 22, 2000.

[16] EPA's determination was upheld at *EDF* v. *EPA,* 210 F.3d 396 (D.C. Cir. 2000).

D. Applicability of Land Disposal Restrictions (LDRs) to Excluded Wastes

(1) Comments on Applicability of Land Disposal Restrictions (LDRs) to Excluded Wastes

EPA received comments from 20 commenters in response to both the 1995 and the 1999 proposals concerning the applicability of LDRs to excluded wastes. Of those comments, eight were received from industries, four were from industry associations, two were from Federal Government Agencies, two were from State Agencies, one was from a consultant, one was from a waste management association, one was from a waste management company, and one was from an individual commenter. A summary of the specific issues raised by commenters is provided below.

Several commenters supported the EPA's proposed revision to the mixture and derived-from rules provided that the excluded waste meets land disposal restriction (LDR) requirements. One industry association noted that LDR standards assure that the waste is well treated. One State Agency believed that having similar wastestreams comply with the same requirements will achieve regulatory consistency as well as protection of human health and the environment.

Several commenters supported EPA's proposed revisions to the rules but did not support meeting LDR requirements. One industry commenter stated that applying LDRs to a waste which is excluded because it no longer meets the hazardous waste criteria is unnecessarily burdensome, costly and is a contradiction of the RCRA program requirements.

Two commenters said that the applicability of LDRs to both wastewater and nonwastewater forms of wastes should be both clear and identical. They felt that there is no justification for managing these wastes inconsistently.

Several of the comments dealt with whether excluded waste would need to be treated to meet LDR treatment standards for all underlying hazardous constituents (UHCs) under the existing rules. They felt that EPA should clarify that it did not intend to revise application of the current LDR rules without any discussion of why such a change would be necessary. One commenter emphasized that EPA has not provided a compelling case for requiring testing for UHCs or a clear methodology for implementing the requirements that are proposed. They stated that since these wastes are listed, generators have not been required to obtain information on underlying hazardous constituents. Obtaining this information would pose an undue burden for the generator, and they requested clarification on who would be responsible for verifying whether the waste in question meets the condition of the exclusion: the generator or the facility receiving the excluded waste.

Two industry association commenters referenced the Land Disposal Program Flexibility Act of 1996 (LDPFA) and its relationship to the proposed exclusion. Under LDPFA, solid wastes identified as hazardous based solely on a characteristic, are not prohibited wastes under the Land Disposal Restrictions program if they are managed in certain systems including a treatment system that subsequently discharges into waters of the United States pursuant to a CWA permit. The commenters further requested that EPA revise its proposed language modifying the mixture rule for wastes in proposed 40 CFR 261.3(a)(2)(ii) so that the land disposal restrictions program does not apply to wastes that are not prohibited. They argued that this revision is crucial to maintain the status quo for managing wastes listed solely for a characteristic in land-based units. Imposing the LDR program on such wastes would put many surface impoundments out of compliance because they are managing decharacterized listed wastes in land-based units that do not meet RCRA's minimum technology requirements.

(2) EPA Response to Comments on Applicability of Land Disposal Restrictions (LDRs) to Excluded Wastes

In proposing to expand the current exclusion for waste listed solely for a characteristic, EPA did not intend to change the way land disposal restrictions (LDRs) apply to the excluded waste. EPA agrees with those comments that support the continued application of LDR requirements to mixture and derived-from wastes listed solely for a characteristic of ignitability, corrosivity, or reactivity after they have become excluded. We are not imposing any new LDR requirements in this rule.

We agree that the treatment standards for UHC's do not apply in all cases, and have not changed the applicability of these requirements. In general, wastes that are both listed as hazardous waste and exhibit a characteristic only need to meet the treatment standard for the listed waste code. (40 CFR 268.9(b)). An exception occurs when the treatment standard for the listed waste code does not include a standard for the constituent that causes the waste to exhibit the characteristic. In this case, the waste must meet the treatment standards for all applicable listed and characteristic waste codes.

EPA disagrees with the comment that LDRs for wastewaters and nonwastewaters should be identical. We continue to support the existing different treatment standards for wastewaters and nonwastewaters. Such differences are based on waste treatability and differences in the Best Demonstrated Available Technology applicable to the waste.

Today's rule also does not broaden the applicability of LDRs. The revised language to 40 CFR 261.3 (g)(3) states, ''Wastes excluded under this section are still subject to part 268 of this chapter (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.'' When the requirements of 40 CFR part 268 would not otherwise apply to a waste (for example, during treatment of certain characteristic wastes in a land-based unit), today's rule does not change that fact. In the case of wastes listed solely for ignitability, corrosivity, and reactivity that do not exhibit a characteristic at the point of generation, these wastes are considered to never have been hazardous and are not subject to 40 CFR part 268.

E. Applicability of Contained-In Policy to Excluded Wastes

1. Comment on Applicability of Contained-In Policy to Excluded Wastes

One commenter, the Department of Defense (DoD), requested that EPA clarify the interaction of the contained-in policy to the RCRA wastes that are listed solely for ignitability, corrosivity, and/or reactivity characteristics.

2. EPA Response to Comment on Applicability of Contained-In Policy to Excluded Wastes

The contained-in principle is the basis for EPA's longstanding interpretation regarding application of RCRA Subtitle C requirements to mixtures of contaminated media and hazardous wastes. Under the ''contained-in'' policy, EPA requires that soil (and other environmental media) be managed as hazardous wastes so long as they contain listed hazardous waste or exhibit a characteristic of hazardous waste. EPA's application of the ''contained-in'' policy to regulate media containing hazardous waste was upheld by the D.C. Circuit Court of Appeals in *Chemical Waste Management* v. *EPA,* 869 F2d 1526, 1539–40 (D.C. Cir. 1989). See the LDR Phase IV final rule 63 FR 28556, 28621 (May 26, 1998) for a detailed discussion of the contained-in policy and the Agency's reason, at the time, not to codify the contained-in policy for contaminated soil.

Today's final rule does not directly affect the implementation of the contained-in policy. However, wastes that are contained in contaminated media are eligible for the 40 CFR 261.3(g) exemption for wastes listed solely for a characteristic. Therefore, under today's final rule, contaminated media that contain a waste listed solely for a characteristic would no longer need to be managed as hazardous waste when it no longer exhibits a characteristic. However, consistent with the regulation of other decharacterized waste (and decharacterized contaminated media), it may remain subject to LDR requirements. (The final rule, by providing that wastes excluded under this section are subject to LDRs ''as applicable,'' applies the current rules regarding LDR applicability to soil containing hazardous waste. See, 40 CFR 268.49. For a detailed discussion of this subject, see 63 FR 28556, 28617 (May 26, 1998).)

IX. What Were the Major Comments on the Revision to 40 CFR 261.3 for Mixed Wastes, and How Has EPA Responded to Them?

A. 1999 Proposed Revision to 40 CFR 261.3 for Mixed Waste

In the 1999 proposal, EPA proposed a change to 40 CFR 261.3 that would exclude certain eligible mixed wastes (i.e., wastes that are both hazardous and radioactive) when they met the conditions outlined in the proposed 40 CFR part 266, Subpart N, which appeared in a separate Federal Register Notice. 64 FR 63464 (Nov. 19, 1999). EPA received comments from nine commenters in response to the 1999 HWIR proposal concerning the conditional exclusion from the mixture and derived-from rules for mixed waste. The commenters supported EPA's proposed conditional exemptions for low-level mixed waste (LLMW). Many of these commenters believed that such an exemption was implicit in the mixed waste proposal and necessary for the proposed mixed waste conditional exemptions to function effectively. Many of these commenters also noted that EPA's proposal would help eliminate much of the current regulatory overlap associated with LLMW. One commenter added that since the implementation of LLMW management under RCRA, it had been difficult to find treatment/disposal capacity for its limited quantities of mixed waste, and the proposal would improve safety, efficiency, cost and timeliness of LLMW management. Several commenters encouraged EPA to expedite its implementation.

However, two commenters (both Federal agencies) were concerned with the proposed regulatory language for implementing a conditional exemption from the mixture and derived-from rules for mixed waste. The commenters believed it would be more appropriate to pursue regulatory relief for low-level mixed waste (LLMW) via the standards proposed for 40 CFR part 266, Subpart N rather than within the definition of hazardous waste in 40 CFR 261.3. This proposed exemption within 40 CFR 261.3 would provide an inconsistency in the application of the MDF rules between wastes mixed with or derived-from the treatment of hazardous wastes and wastes mixed with or derived-from the treatment of LLMWs. The commenters noted that the proposed regulation for the transportation/disposal conditional exemption for mixed waste, section 266.305, exempts the waste from certain RCRA requirements (provided specified conditions are met), but does not exempt the waste from the definition of hazardous waste.

EPA appreciates the support expressed for the conditional exemption for mixed waste mixtures and derived-from wastes. In response to the apparent confusion about how the proposed regulatory language applies to these conditionally exempt mixed wastes, EPA has created a new section to 40 CFR 261.3, section (h), which more carefully explains how the definition of hazardous waste interacts with the mixed waste conditional exemption.

B. 1995 Comments on Conditional Exemptions for Mixed Waste

In EPA's 1995 HWIR proposal, we included a discussion of possible conditional exemptions for mixed wastes based on EPA's HWIR modeling, or on other conditions outlined in a proposal developed by the Department of Energy (DOE). EPA received comments from 45 commenters regarding this discussion, many of whom urged EPA to separate mixed waste from the HWIR rulemaking. DOE has since withdrawn its proposal, and EPA has developed a separate mixed waste exemption, which is published elsewhere in today's **Federal Register**. For a more detailed explanation of all the mixed waste comments submitted as part of the HWIR rulemakings, and EPA's response to those comments please see *Hazardous Waste Identification Rule: Revisions to the Mixture and Derived-From Rules Response to Comments Document.*

X. What Were the Major Comments on the Recommendations Submitted by the Chemical Manufacturers Association (CMA), and How Has EPA Responded to Them?

In August 1999, EPA received a paper from the Chemical Manufacturers Association (CMA)[17] describing five regulatory options for revising the mixture and derived-from rules. CMA forwarded these options seeking regulatory relief for some specific high-volume wastes that they believe are low-risk and feel that EPA could propose to exclude with very little delay. Although we did not have sufficient time to analyze these options in detail, we included a discussion of them in the 1999 HWIR notice to allow for public comment. Below is a short description of each option, a summary of the comments on the option, and EPA's response to the comments.

EPA is currently developing proposals related to two of the suggestions that we believe to be the most promising and straightforward to address: expanding the current headworks exclusion and excluding certain combustion residues. (see Sections X.A. and X.D. respectively). We are also considering additional proposals on the other suggestions, but we believe more analysis would first be necessary to decide how to address specific issues raised in the public comments. In addition, we will consider whether other opportunities exist for exempting low-risk waste from full Subtitle C regulation, including additional targeted exemptions and efforts to streamline the delisting program.

A. Expanding the Current Headworks Exclusion

One option involves an expansion of the current ''headworks'' exclusion in 40 CFR 261.3(a)(2)(iv)(A) and (B). The headworks exclusion excludes from the mixture rule wastewaters containing small quantities of particular F-listed solvents, based on the mass-balance flow of these solvents through the headworks of industrial wastewater treatment systems. CMA's options paper requests that this exclusion be amended in three ways.

First, CMA's suggested revision would allow direct monitoring of the actual concentration of spent solvents in untreated wastewater to demonstrate compliance. The current requirement is to perform a weekly mass balance of the solvents entering the system. Losses due to volatilization must be counted in the mass balance determination under the current system. We note that CMA's suggested wastewater monitoring would provide accurate data at the point the wastewater enters the treatment system, but the losses due to volatilization would not be counted in this approach.

Second, under CMA's suggested revisions, benzene, 2-ethoxyethanol, 2-nitropropane, and 1,1,2-trichloroethane would be incorporated into the list of chemicals for exclusion. These four chemicals were added to the 40 CFR 261.31 list of spent solvents in 1986 but the exclusion does not currently include these chemicals.

Third, under CMA's suggested revisions, multi-source leachate (F039) derived solely from the disposal of the spent solvents listed in 40 CFR 261.31 would be eligible for the exclusion.

(1) Summary of Comments on Expanding Headworks Exclusion

EPA received comments from 13 commenters in response to the discussion on expanding the headworks exclusion. Of those comments, two were received from industry, three were from industry associations, three were from utility companies or utility company associations, three were from State Agencies, one was from a Federal Government Agency, and one was from a waste management association. A summary of the specific issues raised by the commenters is provided below.

One state commenter noted that CMAS's suggested exclusion does not account for volatilization, an important factor considering the solvents involved, if the wastewater treatment system is not actually subject to Clean Air Act controls. In addition, they noted that CMA's suggested exclusion addresses whether and how RCRA should be modified in the wastewater treatment context, and they felt that this is a matter that could be addressed comprehensively following the completion of the surface impoundment study.[18] One waste management association commenter stated it was not clear what the potential environmental impact would be of expanding this exclusion to additional chemicals.

The rest of the commenters supported the CMA's recommendations for specific modifications to the mixture rule to expand the headworks exclusion in 40 CFR 261.3(a)(2)(iv)(A) and (B). Commenters noted that subsequent to the original headworks exclusion, additions were made to the F code solvent listings, but the corresponding changes were not made to the list of solvents in the headworks exclusion. For consistency, benezene, 2-ethoxyethanol, 2-nitropropane and 1,1,2-trichloroethane should be added to the list of solvents allowed under the headworks exclusion. One State added that the circumstances and reasoning that EPA used to support finalizing the original exclusion remain valid for these four solvents. Commenters also noted that they believed EPA would determine the appropriate headworks concentration (i.e., either 1 part per million or 25 parts per million). Also, it is appropriate, practical, and economical for a generator to manage small amounts of spent solvent wastes in a wastewater treatment system subject to regulation under sections 402 and 307 (b) of the Clean Water Act.

Nine of the commenters supported the use of direct monitoring of the actual concentration of spent solvents in untreated wastewater to demonstrate compliance with the headworks exclusion. Several commenters believed direct monitoring would facilitate documentation of compliance. A Federal commenter noted that the suggested changes would provide accurate data at the point the wastewater enters the treatment system, but still would allow generators who rarely discharge solvents into their wastewater systems to use the current method for verifying compliance. Several commenters believed that the mass-balance approach gives rise to a number of problems due to the varying degrees of precision in the underlying measurements and, therefore, deters use of this exclusion. Instead, direct sampling and analysis methods are much more straightforward to implement and would provide more accurate information about what actually is being discharged to treatment systems. A State commented that direct monitoring provides the most definitive information on the concentration levels of hazardous constituents in a waste. Direct monitoring would allow generators to apply the exclusion to its full intended regulatory limit. An industry commenter recommended that compliance with the regulatory levels be measured on a rolling average basis since flows may be variable. Several commenters noted that they do not believe that direct monitoring would encourage volatilization. They noted that EPA did not state directly that the current measurement scheme needed to account for volatilization when the headworks exclusion was finalized and it is not part of the current regulatory

[17] CMA has since changed the name of the organization to the American Chemistry Council (ACC).

[18] Note: EPA's surface impoundment study was completed March 2001. See U.S. Environmental Protection Agency. *Industrial Surface Impoundments in the United States.* EPA530–R–01–005. Washington, D.C. March 2001.

language. However, these comments recognized that over the years, EPA has explained in preamble language and interpretive letters that it considered accounting for volatilization losses to be necessary to prevent facilities from volatilizing solvents in order to be eligible for the exclusion. In the years subsequent to the statement, EPA has issued a number of regulations addressing air emissions of organics, including the listed solvents. Because EPA has addressed these potential air emissions by regulations which focus specifically on these emissions, the commenters felt that there is no need for the headworks exclusion to have to account for them as well.

One State commenter did not support the inclusion of multi-source leachate (F039) in the headworks exclusion, even though the leachate might be derived from the disposal of solvent wastes. The commenter noted that leachate might contain any variety of hazardous constituents, due to the presence of characteristic wastes or non-hazardous wastes. The commenter further noted that it would be difficult to determine whether the headworks exclusion, if modified in this manner, would protect human health and the environment sufficiently. The commenter did state that if the discharge is regulated under the Clean Water Act (CWA), this may provide a reasonable amount of assurance with respect to exposure paths, relating to the wastewater discharge.

Six of the commenters supported extending the exclusion to multi-source leachate (F039) derived solely from the disposal of the spent solvents in 40 CFR 261.31. A Federal commenter noted that in many cases, leachate is contaminated with barely detectable concentrations of F-listed solvents, yet the leachate still is classified as hazardous waste. By allowing the wastewater to be discharged for treatment to a wastewater treatment or pre-treatment system regulated under the CWA, EPA would encourage remediation by lowering treatment costs. The commenter also stated that EPA must believe that the 1 ppm/25 ppm concentration limits established under the existing rules are protective of human health and the environment, so extending those limits to wastes derived from the land disposal of certain listed solvents should be adequately protective.

Several commenters noted that the advent of the multi-source leachate waste code simplified some hazardous waste management by applying the single listing code to hazardous waste leachate. However, this streamlining did create some unintended consequences. Leachate generated solely from F001–F005 solvents no longer qualified for the headworks exclusion, even though the composition of the leachate was virtually identical to dilute non-leachate F001–F005 streams. Therefore, even though F039 leachate derived solely from F001–F005 wastes are exactly the same in chemical composition as the wastes from which they are derived, they cannot be treated in the same treatment train. They must be segregated and handled in separate tank-based systems or shipped off site for treatment and disposal causing additional cost but providing no additional environmental protection. One industry commenter recommended that EPA issue a technical correction or clarification notice with or before promulgating the final HWIR rule to address this problem. Under CMA's recommendation, the headworks exclusion rationale for the solvent wastes from ongoing production processes would be applied equally to solvent wastes leaching from a landfill. Both are treated equally well in the wastewater treatment plant at these low concentrations, so there is no justification for regulating them differently.

(2) EPA Response to Comments on Expanding the Headworks Exclusion

EPA agrees that there is merit in proposing to expand the current exclusions in 40 CFR 261.3(a)(2)(iv)(A) and (B) (the ''headworks'' exclusion) to include the four solvents listed in 1986: benzene, 2-nitropropane, 2-ethoxyethanol, and 1,1,2-trichloroethane, and we are currently developing a proposal on such an expansion. In the proposal, EPA will take into account the issues raised by the commenters, including environmental impacts of the expanded exclusion, and the use of any available surface impoundment study data. In the meantime, we welcome any data or additional feedback from the public on this topic.

We will also evaluate in this proposal the issue of measurement versus mass balance calculation as a part of the implementation of the headworks rule. EPA agrees that in the past 20 years, significant new Clean Air Act regulations have come into effect that may address some of the concerns about deliberate volatilization. In developing a proposed revision to the monitoring requirements for the headworks rule, we would take into account the issue raised by the commenters, including the issues concerning volatilization. We welcome any additional data the public has to support such a change.

EPA is also interested in possible applications in which solvent-only landfill leachate may be sent to a wastewater treatment facility. We are concerned, however, about possible difficulties in determining whether a landfill has received only solvent wastes. As part of the investigation, EPA would need more information characterizing possible ''solvent waste only'' landfills. We welcome any additional data the public has on these landfills.

B. Excluding Hazardous Waste Leachate

Another of the suggested regulatory options involves leachate derived from the land disposal of listed hazardous waste which is subsequently managed in a system regulated under the Clean Water Act. CMA argues that the leachate is both physically and chemically dissimilar from the wastes that were originally listed. Under the option presented, leachate would not be hazardous, even when generated from the treatment, storage or disposal of hazardous waste, unless it exhibited one or more of the hazardous waste characteristics of 40 CFR Part 261, Subpart C.

(1) Comments on Excluding Hazardous Waste Leachate

EPA received comments from eight commenters in response to excluding leachate. Of those comments, three were received from industries, one was from an industry association, three were from State Agencies, and one was from a waste management association. A summary of the specific issues raised by commenters is provided below.

The waste management association did not support the exclusion, noting that treatment tanks that are part of a Clean Water Act (CWA) system already are conditionally exempt. Thus, it was not clear to the commenter why a more expansive exclusion was advisable, particularly because leachate from hazardous wastes ''may often contain toxic constituents that are not subject to NPDES discharge limits or water quality standards.'' Also, one State did not support the exclusion noting that many organics of concern are not covered by the toxicity characteristic. Furthermore, the State commenter believed that it would be inappropriate to exclude these wastestreams without examining the results of the surface impoundment study, particularly without any supporting data on the physical/chemical properties of the leachate and its associated risks. Finally, these State comments claimed that there is no generic way to tell if these leachates will pose a problem. They could be very

different from unit to unit depending upon what type of waste has been placed in the unit. The commenter also felt that there could be an air emission problem or the leachate could cause the sludge to become hazardous. Instead, the State commenter thought industries should go through a case specific delisting for these wastes.

One State commenter did not understand CMA's proposal to exclude leachate from the derived-from rule. Currently, F039 leachate waste is subject to Part 268 land disposal restriction requirements and could be treated onsite in a tank or container within 90 days of generation without a permit. If this treated waste was an industrial wastewater discharge that was a point source discharge subject to regulation under section 402 of the Clean Water Act, it would be eligible for the 261.4(a)(2) exclusion. In that case the wastewater would not be a solid waste. The State wondered if CMA was proposing that F039 be exempt from LDR requirements. If that was the case, the State did not support such a recommendation.

One State commenter stated that there may be merit in excluding leachate resulting from the land disposal of a listed hazardous waste when the leachate is subsequently managed in a wastewater treatment system regulated under the CWA. However, to make a definitive decision, the State expressed a need to evaluate constituent concentration data, current management practices, environmental injury cases caused by the residues, and whether the residues commonly exhibit a hazardous waste characteristic. Since (1) the leachate is generated from landfills where only treated hazardous wastes are disposed, and (2) bonafide treatment has occurred and the residues are physically and/or chemically different from the hazardous wastes they were generated from, the State believed it was appropriate to view the residues as newly generated wastes and impose RCRA regulation only if the waste exhibited a hazardous waste characteristic.

The rest of the commenters believed that EPA should consider leachate from hazardous waste landfills to be a newly generated waste rather than derived-from waste. As a newly generated waste, it would be subject to regulation if it failed one or more hazardous waste characteristics, but would no longer be subject to hazardous waste regulation solely because the landfill accepted listed hazardous wastes. Several commenters noted that most POTWs would not accept direct discharges of listed hazardous waste, even if the leachate met all applicable effluent guidelines and other standards. As a result, several commenters noted that they must use costly and unnecessary incineration or other treatment at off-site facilities. In addition, the transportation and management from sending the wastes off-site actually may increase environmental risks and energy usage relative to the protective and cost-effective management in industrial wastewater systems. Several commenters noted that both landfills and land treatment units, as defined by RCRA, generate a leachate when constructed with a bottom liner. Leachate from either type of unit should qualify for the exclusion so long as it did not fail for a hazardous characteristic and the wastewater treatment system receiving the leachate was subject to regulation under the CWA. Two commenters also recommended as an alternative to considering leachate from hazardous waste landfills to be a newly generated waste, that EPA make it eligible for the headworks exclusion.

(2) EPA Response to Comments on Excluding Hazardous Waste Leachate

At this time, EPA is still considering the suggested regulatory exclusion for leachate derived-from landfilled hazardous waste as well as other specific exemption options, but we first need to evaluate several important issues. As noted in the comments, most hazardous waste leachate is regulated under a separate waste code, F039. To date, we have received no information that would cause us to reconsider that listing, although we would welcome any data that might be helpful in such a re-evaluation. However, in the most recent EPA study of landfill leachate characteristics (65 FR 3007, January 19, 2000), we found considerable differences between the leachate samples from hazardous and those from non-hazardous landfills in both numbers of constituents of concern and their concentrations. Hazardous waste landfill leachate contained a greater number of constituents than non-hazardous waste landfill leachate, and constituents found in both hazardous and non-hazardous waste landfill leachate were generally present in hazardous waste landfill leachate at concentrations an order of magnitude higher than those found in non-hazardous waste landfill leachate.[19] As noted in the comments, these pollutants can include many organic hazardous constituents not covered by the Toxicity Characteristic. Absent a risk assessment, it is not possible to determine whether the levels of these constituents pose unacceptable risk. However, the presence of these constituents is a strong indication that more study would be needed before developing an exemption for hazardous waste leachate.

C. Excluding Hazardous Waste Aggressive Biological Treatment Residues

Another suggested regulatory option involves excluding residues from the biological treatment of listed hazardous wastewaters. CMA argues that theses wastes are both physically and chemically dissimilar from the wastes that were originally listed. In addition, CMA notes that biological treatment can greatly reduce or eliminate organic chemicals. Under the options presented in CMA's discussion papers, these wastes would not be hazardous, even though they are generated from the treatment, storage or disposal of hazardous waste, unless they exhibit one or more of the hazardous waste characteristics of Subpart C of 40 CFR part 261.

(1) Comments on Excluding Residues From Aggressive Biological Treatment of Hazardous Waste

EPA received comments from 10 commenters in response to the CMA recommendation to exclude aggressive biological treatment residues from the derived-from rule. Of those comments, four were received from industries, two were from industry associations, three were from State Agencies, and one was from a waste management association. A summary of the specific issues raised by commenters is provided below.

The waste management association did not support excluding sludges derived from the biological treatment of listed hazardous wastes. The commenter noted that the sludges typically contain concentrations of heavy metals that warrant further treatment and Subtitle C disposal. EPA's listing background document for F006 electroplating sludges, for example, provides data on the presence of lead, cadmium, chromium and other toxic metals in such wastewater treatment sludges.

Two States did not support the exclusion, noting that these sludges can continue to pose a threat to human health and the environment and should continue to be subject to the derived-from rule. The States also believed that these wastes should meet land disposal restriction (LDR) treatment standards, just as any other listed hazardous waste

[19] Development Document for Final Effluent Limitations Guidelines and Standards for the Landfills Point Source Category, EPA–821–R–99–019, U.S. EPA, January 2000.

is required to meet a treatment standard before being disposed in a permitted Subtitle C facility. One State noted that EPA proposed the retention of the mixture and derived-from rules in part because of the potential toxicity of wastewater treatment sludges. (See 64 FR 63389, November 19, 1999).

One State commenter noted that there may be merit in excluding aggressive biological treatment residues. However, to make a definitive decision, the State would need to evaluate constituent concentration data, current management practices, environmental injury cases caused by the residues, and whether the residues commonly exhibit a hazardous waste characteristic. Since wastewater treatment is a bonafide treatment method proven to detoxify or otherwise treat hazardous waste and the residues are physically and/or chemically different from the hazardous wastes they were generated from, the State believed it was appropriate to view the residues as newly generated wastes and impose RCRA regulation only if the waste exhibited a hazardous waste characteristic.

The rest of the commenters supported excluding sludges derived from the biological treatment of listed hazardous wastes. Many commenters noted that industrial biosludges currently are overmanaged as hazardous wastes at a high cost to industry. Several commenters added that residues from biological treatment processes have reduced organic constituent concentrations significantly relative to the original waste. Commenters noted that most listed wastewaters are 99% water and are therefore substantially different in terms of potential for environmental harm than a non-wastewater form of the same waste. Also, residues derived from aggressive biological treatment are fundamentally different (both chemically and physically) from the originally listed wastes and these residues should be considered a new point of generation. One commenter submitted data on the concentration of chemicals in a combined treatment sludge.

Additionally, commenters claimed that in recent hazardous waste listings, EPA has recognized that treatment sludges do not necessarily present any significant environmental hazard even when there is sufficient hazard in the waste as generated to warrant listing by EPA (e.g., wastewater treatment sludges from carbamates, anthraquinone, and chlorinated aliphatics). Commenters also noted that public reporting of these very large volumes of derived-from waste misleads the public over the amount of actual hazardous waste in their communities.

Several commenters believed that there should not be a specific contingent management requirement associated with the excluded biosludge. Rather, the sludge would be subject to state industrial non-hazardous waste RCRA (Subtitle D) programs, including restrictions on industrial non-hazardous waste landfilling, combustion and other management options. Since industrial biosludge resulting from an aggressive biological treatment system is not significantly different from sewage sludge, the commenters expected that any restrictions placed on the use of sewage sludge would likewise apply to excluded sludge.

A few commenters pointed out that the LDR program for characteristic wastes has over the years established new points of generation. The commenters noted that in the LDR program, EPA recognized that various treatment residuals differ from the wastes from which they are derived and should not continue to be regulated as the same wastes. In at least three other situations, EPA has made a specific determination that the generation of wastewater treatment biosludge constitutes a new point of generation, generally on the basis that the wastewater being treated falls into one treatability group and the resultant sludge into another. They are: (1) Sludge from the treatment of U154 contaminated groundwater—The sludge is considered newly generated waste because it is a different treatability group than the wastewater being treated—sludge generated from treating non-ignitable wastewaters not derived from hazardous waste (03/21/96 Berlow, EPA to Day, Bryan Cave, LLP); (2) LDR notification requirements for wastewaters and sludges—LDR requirements apply only to wastes that are hazardous at the point of generation. Non-hazardous sludges removed from a wastewater treatment unit require no LDR notification. The requirement to identify and treat for underlying hazardous constituents (UHCs) is not applicable to wastewaters managed in centralized wastewater treatment systems subject to the CWA or to sludges that are not hazardous at the point of generation (05/01/97 Cotsworth, EPA to Dolce, Award Environmental Inc.); and (3) applicability of land disposal restrictions to tank-based wastewater treatment systems—LDRs do not apply to waste managed in systems that are entirely tank-based; sludge generated from wastewater treatment belongs to a different treatability group, and is therefore a newly generated waste that should be evaluated at the point of generation (03/29/97 Berlow, EPA to Day, Bryan Cave, LLP).

(2) EPA Response to Comments on Excluding Residues From Aggressive Biological Treatment of Hazardous Waste

EPA is considering a tailored exclusion for biological treatment residues, but does not believe that a blanket exclusion from the mixture and derived-from rules is appropriate for such wastes. Not all wastestreams are amenable to biological treatment, and the composition of the residuals generated from biological treatment would vary greatly depending on the influent and on the efficacy of the treatment system.

We have, in the past, determined that biological treatment systems are inappropriate for metals and could result in impermissible dilution under the LDR program.[20] We have also denied a delisting petition for K035 sludges resulting from aerated biological treatment of creosote in a surface impoundment in part because of downgradient groundwater contamination.[21] In addition, we have information that facilities have attempted to avoid generating F037 and F038 wastes by adding minimal aeration to primary treatment units and claiming the sludges from these units as excluded.[22]

However, EPA believes there may be merit to the idea of regulating certain types of biological treatment residues differently. As noted in the comments, we have in the past excluded certain types of biological treatment wastes from regulation (see, for example, 40 CFR 261.3(c)(2)(ii)(D)). There may be other types of waste similarly amenable to biological treatment. Before developing such a regulatory proposal, EPA would first gather and analyze data on biological treatment waste. Therefore, any such data would be welcomed by the Agency.

[20] EPA 1990. *LDR Determination of Waste Stream Dilution,* Letter from Jeffery Denit, Deputy Director, Office of Solid Waste to Bruce Smith, Director, Office of Hazardous Waste Programs, EPA Region III, October 14, 1990. [FAXBACK 13414, PPC 9551.1990(06)]

[21] EPA 1987. *K035 Listing and Inclusion of Sludges from Biological Treatment of Creosote Production Wastes,* Letter from Bruce R. Weddle, U.S. EPA, to Jordan Dern, Koppers Company, Inc., December 11, 1987. [FAXBACK 13105, PPC 9444.1987(52)].

[22] U.S. EPA 1991. *Draft Region VIII Policy on ''Aggressive Biological Treatment'',* Letter from Robert L. Duprey, Director, Hazardous Waste Management Division (EPA Region VIII) to Sylvia K. Lowrance, Director, Office of Solid Waste, April 19, 1991 (Ref: 8HWM–RI)

D. Excluding Hazardous Waste Combustion Residues

Another of CMA's suggested options involves excluding residues from the combustion of listed hazardous waste. CMA argues that these wastes are both physically and chemically dissimilar from the wastes that were originally listed. In addition, CMA notes that combustion can virtually eliminate organic chemicals. Under the options presented in CMA's discussion papers, these wastes, which would include combustion ash, slag, air pollution control residue and scrubber water, would not be hazardous, even though they are generated from the treatment, storage or disposal of hazardous waste, unless they exhibit one or more of the hazardous waste characteristics of 40 CFR part 261, Subpart C.

(1) Comments on Excluding Hazardous Waste Combustion Residues

EPA received comments from 15 commenters in response to the CMA recommendation to exclude hazardous waste combustion residues. Of those comments, seven were received from industries, two were from industry associations, four were from State Agencies, one was from a waste management company, and one was from a waste management association. A summary of the specific issues raised by commenters is provided below.

One waste management association and two State commenters did not support excluding combustion residues, noting that there is a great deal of variability in combustion residues. While some organic compounds are destroyed effectively by the combustion process, the residue may contain persistent constituents (e.g., dioxins and metals) that are toxic. Accordingly, while the combustion byproducts may be physically and chemically dissimilar from the listed waste it is derived from, the byproducts have toxic properties that could cause environmental degradation. The commenters believed that relying on the TC by itself fails to provide adequate protection of human health and the environment. The commenters mentioned that not all metals of concern are covered by the TC. They also noted that the TC only measures potential risks via the groundwater pathway, and it is not definitive that groundwater is the driving risk pathway for these wastes. Because the TC approach does not comprehensively evaluate potential risks, wastes that do not exhibit hazardous waste characteristics are not necessarily non-hazardous. In addition, one State commenter believed it was prudent to wait for EPA's anticipated action on proposed combustion residues to address the physical and chemical properties of these wastes before any action is taken on CMA's proposal.

Two State commenters stated that there may be merit in excluding residues from the combustion of listed hazardous wastes. However, to make a definitive decision, one State would need to evaluate constituent concentration data, current management practices, environmental injury cases caused by the residues, and whether the residues commonly exhibit a hazardous waste characteristic. Since bonafide treatment has occurred and the residues are physically and/or chemically different from the hazardous wastes they were generated from, the State believed it was appropriate to view the residues as newly generated wastes and impose RCRA regulation if the waste exhibited a hazardous waste characteristic. Another State commenter believed an exclusion for combustion residues could be appropriate if the combustion takes place in a permitted (not interim status) hazardous waste combustion device; any listed wastes are listed for organic hazardous constituents only; the residual must not exhibit any characteristics; and the residues meet LDRs, including standards for underlying constituents. This approach would protect human health and the environment fully and would allow many combustion residues to exit Subtitle C regulation once LDRs are met.

The rest of the commenters believed that EPA should consider residues from hazardous waste combustion to be a new point of generation. These combustion residuals substantially differ in their physical and chemical makeup from the original listed hazardous wastes from which they are derived. Subtitle C regulation is not needed for such combustion residuals, especially if the residues do not exhibit hazardous characteristics. Instead, the residues can be managed adequately and protectively as industrial non-hazardous waste or discharged under the Clean Water Act. The commenters believed that the high cost of regulating these materials as hazardous waste purchases little or no increased protection of human health and the environment. The hazardous waste combustion process destroys virtually all of the organics in the listed wastes from which these residuals are derived, and the Toxicity Characteristic limits for metals are virtually the same as the health-based limits EPA-established for excluding Bevill wastes from Subtitle C regulation. One commenter submitted information on the operating parameters and limits for their combustion unit and the concentrations of the sludge from incinerator scrubber water generated.

One industry commenter noted that in combustion-related rulemakings, EPA consistently has maintained that well-operated and maintained combustion units can achieve high combustion efficiencies and can be operated in a manner that is protective of human health and the environment. Therefore, the commenter recommended the exclusion be limited to residues from units that continuously monitor stack emissions of CO, and do not exceed a CO level of 100 ppmv measured as an hourly rolling average.

While agreeing with CMA's proposal, one association commenter believed it should be extended to combustion residues from facilities operating pursuant to 40 CFR part 266, subpart F, specifically residues from precious metal reclamation operations. The commenter noted that the recovery of precious metals from hazardous waste is not a TSDF operation, and the units are not permitted under the same CFR sections. The commenter added that precious metal-bearing residues also are environmentally safe for two additional reasons: (1) Precious metal-bearing residues must not exhibit one or more of the characteristics of hazardous waste and (2) the residues must contain economically significant amounts of precious metals (to partake of the authority of 40 CFR 266.100(f)), and thus such wastes will be further reclaimed rather than disposed, ensuring environmentally protective management.

One commenter supported the use of the TCLP extract concentration limits in Appendix VII to 40 CFR part 266 as the criteria for excluding combustion residues. Several commenters also believed that solid residues from hazardous waste combustion units that do not exhibit any toxicity characteristic should be considered industrial non-hazardous waste. As such, the materials would be subject to state industrial non-hazardous waste programs.

(2) EPA Response to Comments on Excluding Hazardous Waste Combustion Residues

EPA is considering a possible exclusion for certain combustion residues, but does not believe that a blanket exclusion from the mixture and derived-from rules is appropriate for such wastes. Although hazardous waste combustors must meet at least 99.99% DRE (destruction and removal efficiency), metals and certain organics may only be transferred to a residue.

The constituents can become significantly concentrated in the residue. EPA does not believe that stack emissions are a reliable measure of the risk posed by the combustion residue; in fact, as technology improves the removal capability of air pollution control devices, the resulting residue will likely have greater concentrations of hazardous constituents and may pose unacceptable risks if mismanaged. In addition, several of the mixture and derived-from waste damage cases that EPA has identified are a result of improper disposal of combustion residues.[23]

In addition, EPA is particularly concerned about the possible formation of dioxins and furans during hazardous waste combustion. In the September 1999 combustion rule, we noted that there is ''a considerable body of evidence'' to show that dioxin and furan compounds can be formed in the post-combustion regions of hazardous waste combustors (see 64 FR 52994). Because of this concern, we have added these dioxin and furan compounds to Appendix VIII of 40 CFR part 266, which lists products of incomplete combustion (PICs) likely to be found in stack effluents.

However, EPA is considering a proposed tailored exclusion for certain combustion residues. For example, EPA is currently developing for public comment a proposed exclusion that focuses on wastes that have been slagged to liquefaction. These slagged wastes are unique because the high temperatures associated with liquefaction (2100°F, typically) appear to eliminate organic chemicals, including PICs, and generate a slagged residue which is a glassy, liquid, molten material that, when cooled, forms a potentially durable, homogeneous, solid mass. This combination of elimination of organic chemicals and change in physical form (which can reduce risk from non-groundwater pathways) make these slagged residues potential candidates for de-regulation. However, the liquefaction process does not reduce the concentration of toxic metals in the waste, which we would need to evaluate for potential risks to human health and the environment. EPA is planning to address this issue, as well as other possible tailored exclusions for combustion residues, in the upcoming proposal.

[23] *See* table 1, EPA 2000. *Releases of Hazardous Constituents Associated with Mixture and Derived-from Wastes (An Update)* U.S. EPA, April 2000.

E. Expanding the Current De Minimis Exclusion

A final regulatory option to revise the mixture and derived-from rules would expand a current exclusion for ''*de minimis*'' losses that result from the manufacture of commercial chemical products. The current exclusion, found in 40 CFR 261.3(a)(2)(iv)(D), excludes small losses of a commercial chemical product that can result from normal handling of the chemicals during the manufacturing process. The existing exclusion applies to commercial chemical products or intermediates, when they are lost during the manufacturing operation and are subsequently managed as a wastewater subject to regulation under the Clean Water Act (CWA) (see 46 FR 56586). The suggested expansion of this option would also exclude small losses from the normal handling of all listed hazardous wastes (instead of just commercial chemical products) when managed as a wastewater under the CWA. One rationale for the current ''de minimis'' exclusion is that a facility has little economic incentive to allow spills, leaks or other losses of commercial products. With respect to wastes, CMA believes that tank, container and air emission management standards of 40 CFR parts 264 and 265, subparts I, J, BB, and CC serve to encourage safe management of these wastes.

(1) Summary of Comments on Expanding the Current De Minimis Exclusion

EPA received comments from 15 commenters in response to the suggested expansion of the de minimis exclusion. Of those comments, six were received from industries, four were from industry associations, three were from State Agencies, one was from a Federal Government Agency, and one was from a waste management association. A summary of the specific issues raised by commenters is provided below.

Three commenters did not support the exclusion, believing that the exclusion might serve as an incentive for generators to spill or leak listed wastes into non-hazardous wastewater systems if those wastes were eligible for an exclusion. The current exclusion exists for commercial chemical products and companies typically ensure that raw materials/products are handled in a manner which would minimize losses, as these materials/products are valuable. The commenters did not believe that companies necessarily would take the same amount of care to prevent losses of listed wastes, if those wastes were excluded from Subtitle C.

One State commenter supported the exclusion. However, the State believes that rinsate from large hazardous waste containers that are rendered empty should be outside the definition of a de minimis loss. Large containers such as tanker trucks could contain substantial quantities (possibly hundreds of gallons) of hazardous waste. Such a volume of hazardous waste is outside the scope of losses that should be defined as de minimis and should not be defined as such.

One industry commenter stated that it was not clear from the preamble discussion what was meant by ''rinsate from empty containers or from containers that are rendered empty by that rinsing.'' The commenter noted that rinsate from containers that held hazardous waste ''generally contains concentrations of hazardous constituents which are at least as high as the original waste'' and may contain significant quantities of solids. The quantities used to rinse containers of this type also may be significant depending upon the level of contamination in the container. In some cases it is not possible to clean a container to the point of being empty under the RCRA regulations and the container has to be disposed of as hazardous waste. The commenter believed that this issue must be clarified further before any exclusion could be considered. An industry association commenter also noted that the CMA proposal did not identify adequately the wastes for which the exclusion would operate. Since RCRA-empty container rinsate is already excluded, the commenter believed it should be specified that any exclusion need only address acute hazardous waste rinsate.

The rest of the commenters supported expanding the de minimis exclusion to all listed wastes. Several commenters believed that the exclusion could be extended beneficially to cover the very small losses from the normal handling of all listed wastes. The stringent regulation of hazardous waste handling at the site of generation means that few losses of this type would be expected to occur. The ability to manage de minimis losses of listed wastes as non-hazardous would ease RCRA compliance significantly without compromising the integrity of the NPDES wastewater treatment system or protection of human health and the environment.

The commenters noted that there was no reason to assume that a non-hazardous industrial wastewater treatment facility was any less capable of providing adequate treatment of the hazardous constituents found in listed wastes. EPA's stringent container and

tank management standards in 40 CFR parts 264 and 265 subparts I and J, and air emission standards in subpart CC, serve as powerful incentives to properly manage these wastes to minimize the occurrence of ''de minimis'' losses. The Federal commenter supported the expansion, noting that it would provide to military installations the same level of regulation as is currently applicable to manufacturing industries. One industry commenter recommended that facilities wishing to take advantage of this exclusion be required to develop and implement written Best Management Practices (BMP) for all loading, unloading and transfer operations which are designed to minimize spills and prevent abuse of the exclusion.

One commenter questioned why EPA never has set out a scientific rationale by which it reserves the discriminatory use of the de minimis rule to those engaged in the manufacturing process and denies it to all others, including stand-alone bulk liquid commercial chemical storage terminals. The commenter also suggested that de minimis losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage tanks or containers, leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing.

Another commenter believed that there would be significant benefits from allowing de minimis losses of commercial chemical products from laboratories to be covered by the current regulatory exclusion. The types of commercial chemical products being used and tested in the laboratory also could be expected to be amenable to effective treatment in an on-site wastewater treatment system. The commenter noted that significant time, effort and cost is involved in segregating and capturing these types of de minimis losses from on-site laboratories.

(2) EPA's Response to Comments on Expanding the Current De Minimis Exclusion

EPA is considering the possibility of expanding the current de minimis exclusion for wastes managed in a wastewater treatment system subject to the Clean Water Act. However, EPA is concerned about the possible negative incentives that might result from extending the de minimis exclusion to wastes listed in 40 CFR 261.31 and 261.32 (F and K wastes, respectively). As noted in the comments, there is a direct economic incentive to ensuring that raw materials/products are handled in a manner which would minimize losses, as these materials/products are valuable. This incentive does not exist for hazardous waste. The concept of ''de minimis'' is also variable, depending on the quantities of material handled and the relationship of those quantities with the flowrate of the facility's wastewater treatment plant. However, EPA realizes that separation of small leaks of certain hazardous wastes can sometimes be impractical.

One possible approach would be to base the concept of ''de minimis'' on some fixed quantity of the waste, such as a Reportable Quantity (RQ) in Superfund regulations (see 40 CFR 302.4 and Table 302.4). By statute, all hazardous wastes must be given an RQ. EPA may pursue the concept of de minimis related to RQs (or some fraction or multiple thereof) as we consider this issue further. In pursuing such a change, EPA would do so through a proposed rulemaking.

In conclusion, EPA is currently developing proposals related to two of the suggestions that we believe to be the most straightforward to address: expanding the current headworks exclusion and excluding certain combustion residues (see Sections X.A. and X.D. respectively). We will also consider developing additional proposals on the other suggestions as well as other targeted exemptions, but we believe more analysis would first be necessary to decide how to address specific issues raised in the public. EPA welcomes any information or data that would help us in developing these analyses.

State Authorization

XI. How Will Today's Regulatory Changes Be Administered and Enforced in the States?

Under section 3006 of RCRA, EPA may authorize qualified States to carry out the RCRA hazardous waste program within the State. Following authorization, we maintain independent enforcement authority under sections 3007, 3008, 3013, and 7003 of RCRA, although authorized States have enforcement responsibility. An authorized State could become authorized for today's regulatory changes by following the approval process described under 40 CFR 271.21. See 40 CFR part 271 for the overall standards and requirements for authorization.

We are finalizing the retention of the mixture and derived-from rules. Most states have already received authorization for the mixture and derived-from rules as they currently stand. The rules are already in effect in those authorized States. Those states that are already authorized for the mixture and derived-from rules do not need to obtain authorization for those rules again. We are also revising those rules under the authority of sections 3001(a), 3002(a), and 3004(a) of RCRA. These revisions will not go into effect in authorized States until they adopt the revisions and receive authorization from us for the revision to their regulations.

None of today's revisions are more stringent or broaden the scope of the existing Federal requirements. Authorized States are not required to modify their programs when we promulgate changes to Federal requirements that are less stringent than, or that narrow the scope of, existing Federal requirements. This flexibility stems from RCRA section 3009, which allows the States to impose (or retain) standards that are more stringent than those in the Federal program. (See also 40 CFR 271.1(i)). Therefore, States are not required to adopt the revisions to the mixture and derived-from rules in today's rule, although EPA will strongly encourage their adoption.

Administrative Requirements

XII. How Has EPA Fulfilled the Administrative Requirements for This Rulemaking?

Several statutes and executive orders apply to rulemaking. Below is an explanation of how we address the requirements in those provisions:

A. Executive Order 12866: Determination of Significance

Under Executive Order 12866 (58 FR 51,735 (Oct. 4, 1993)), EPA must determine whether a regulatory action is ''significant'' and, therefore, subject to OMB review and the other provisions of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations or recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Pursuant to the fourth term of Executive Order 12866, we have determined that this rule is a ''significant regulatory action'' because there are novel policy issues arising out of legal mandates. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the docket to today's rule.

Although today's final rule is not ''economically significant,'' the Agency prepared an economics background document in support of today's rule, titled *Economic Assessment of the U.S. EPA's 2001 Final Rule Revising the Mixture and Derived-From Rules.*

There are currently 29 hazardous waste codes within the RCRA program listed solely for ignitability (I), corrosivity (C), and/or reactivity (R) characteristics. Today's rule excludes these wastes from RCRA Subtitle C regulation, if such wastes are de-characterized and meet the associated LDR treatment standards.To estimate the potential economic impact of excluding these 29 characteristically-listed RCRA waste codes, we analyzed the type and quantity of industrial hazardous wastes contained in the two databases: the 1986 ''Generator Survey'', and the 1996 ''National Hazardous Waste Constituent Survey.'' These two databases are described in the Economic Assessment background document.

This exclusion is expected to benefit the relevant segment of the RCRA regulated community by reducing the cost of shipping and disposing these de-characterized wastes. This potential cost savings is modeled in this study as consisting of two components:

(1) The difference between the cost for disposal of treatment residuals from these 29 waste codes in hazardous landfills (i.e., current or ''baseline'' practice), compared to the cost for disposal in nonhazardous landfills under this exclusion.

(2) The reduction in burden hours and associated burden cost for no longer requiring preparation, transmitting and filing of truck shipment hazardous waste manifests (EPA Form 8700–22) for these potentially excluded wastes.

The database extractions, computations and findings of the impact analysis are presented in the Economic Assessment background document. The highlights of EPA's estimated economic impacts for this revision are as follows:

—236 applicable industrial hazardous waste streams, totaling 3.6 million tons in annual generation (before RCRA Subtitle C hazardous waste treatment) by an estimated 120 US facilities.

—As generated, these waste streams consist of 99% liquid (mainly organic liquids) and 1% non-liquid (sludge) waste forms.

—The 3.6 million annual tons of applicable waste (before RCRA Subtitle C hazardous waste treatment), represents 1.4% of the total RCRA hazardous waste universe (1993 BRS large generator total quantity = 258 million tons).

—Approximately 75% of the potentially excluded waste streams are identified by waste code F003 (spent non-halogenated solvents) plus a characteristic waste code (for example, D001), and 19% are identified by waste code F003 only.

—Applicable waste streams are located in 17 four-digit level SIC code industry sectors. 146 (62%) of the 236 applicable waste streams are generated by industries in SIC 28 (represented also by NAICS code 325).

—There are 51 different hazardous chemical constituents in the wastestreams *before treatment;* prevalent ones include: ethylbenzene, toluene, methyl ethyl ketone, methanol, ethyl acetate, xylenes, acetone, methylene chloride, and n-butyl alcohol.

—After RCRA Subtitle C treatment (mainly incineration), the 236 wastestreams result in the annual disposal of about 57,400 tons of treatment residuals, primarily in the form of incineration ash.

—Potential annual industry waste treatment residual disposal cost savings is estimated at $4.593 million, while annual reduction in truck shipment manifesting cost is estimated at $0.455 million. These two cost savings components represent a total annual cost savings estimate of $5.048 million. Applying –15% to +30% cost estimation uncertainty to this point-estimate (as explained in the background document), produces the associated cost savings estimation range of $4.29 to $6.56 million per year.

B. Regulatory Flexibility Act

Pursuant to the 1980 Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency publishes a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, a regulatory flexibility analysis is not required if the head of an agency certifies that the rule will not have a ''significant'' economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a ''significant'' economic impact on a substantial number of small entities. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et. seq.*

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards established for industries as described in the North American Industry Classification System (see http://www.sba.gov/size/NAICS-cover-page.html).; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to

identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

The following discussion presents the facts for EPA's determination. EPA has examined this rule's potential effects on small entities as required by the RFA/SBREFA, and has determined that this action will not have a significant economic impact on a substantial number of small entities. As discussed in Section XII.A of this preamble, we have prepared an economic analysis of the potential effects of this rule, and have determined that the rule is expected to have a net beneficial effect on eligible entities, in the form of reduced environmental regulatory compliance costs for industrial waste management. The final rule allows small (and other size) entities voluntarily to exempt certain solid wastes (i.e. mixtures and derivatives of solid wastes listed as RCRA hazardous solely for the ignitability, corrosivity, and/or reactivity characteristics, which no longer exhibit any such characteristic, and which comply with RCRA land disposal restrictions), from compliance with the RCRA Subtitle C hazardous waste regulatory system. The economic analysis evaluates the extent to which both small quantity and large quantity industrial waste generators might be potentially eligible for cost savings under this rule, as a result of seeking this exemption. This proposed rule is voluntary, and the overall economic effect of this regulation for both small and large entities which are eligible to participate, is expected to be a net average annual reduction in industry regulatory burden and compliance costs. Consequently, because the net economic impacts and effects of this rule are beneficial rather than adverse, we have concluded that today's final rule will relieve regulatory burden for all small entities.

C. Paperwork Reduction Act (Information Collection Request)

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 0801.12) and a copy may be obtained from Sandy Farmer by mail at OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 1200 Pennsylvania Avenue NW.; Washington, DC 20460, by E-mail at farmer.sandy@epamail.epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the Internet at http://www.epa.gov/icr.

Today's revisions of 40 CFR 261.3 do not include any new recordkeeping or reporting requirements. However, the revisions could reduce the burden estimate for existing RCRA information collection requirements, such as the Uniform Hazardous Waste Manifest (Form 8700–22A). As discussed in Section XII.A. of this preamble, today's rule could exclude approximately 54,700 tons of treated waste residuals (mainly incineration ash) per year. Assuming that these now-excluded wastes are shipped offsite for disposal, and assuming that an average truckload carries about 20 tons (of solids), today's rule could result in approximately 2,870 shipments per year that would no longer require Uniform Hazardous Waste Manifest. (This estimate is an upper bound, since many hazardous waste generators manage their waste on-site). The RCRA Hazardous Waste Manifest System ICR (No. 0801.12.) estimates an annual burden of 1.29 hours per shipment of hazardous waste. Therefore, today's rule could reduce the total burden associated with manifests by 3,702 hours per year. (The current burden associated with manifests is estimated to be 2,920,383 hours per year).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, we generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes, with the final rule, an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we must have developed a small government agency plan under section 203 of the UMRA. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's revision to the mixture and derived-from rules is voluntary, and because these revisions are less stringent than the current regulations, State governments are not required to adopt the regulatory changes. The UMRA generally excludes from the definition of ''Federal intergovernmental mandate'' duties that arise from participation in a voluntary federal program. The UMRA also excludes from the definition of ''Federal private sector mandate'' duties that arise from participation in a voluntary federal program. Therefore we have determined that today's rule is not subject to the requirements of sections 202 and 205 of UMRA.

E. Executive Order 13132 (Federalism)

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. As explained in Section XI of this preamble, none of today's revisions are more stringent or broaden the scope of the existing Federal requirements. Therefore, States are not required to adopt the revisions to the mixture and derived-from rules in today's rules. Thus, Executive Order 13132 does not apply to this rule. Although section 6 of Executive Order 13132 does not apply to this rule, EPA did consult with representatives of state governments in developing this rule, and included representatives of state governments as participants in the rulemaking workgroup. For an overview of EPA's consultations with the States, please see *Summary of Consultations with State Representatives for the Hazardous Waste Identification Rule (HWIR).*

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Because today's revision to the mixture and derived-from rules is less stringent than the existing program, it would not create any mandate on Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

''Protection of Children from Environmental Health Risks and Safety Risks'' (62 *FR* 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us. This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866 and because the environmental health or safety risks addressed by this action do not present a disproportionate risk to children.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs us to use voluntary consensus standards in our regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards. Today's rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

I. Executive Order 12898: Environmental Justice

Under Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' as well as through EPA's April 1995, ''Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report,'' and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities. Today's rule is not expected to negatively impact any community, and therefore is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities versus non-minority or affluent communities.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective August 14, 2001.

Technical Correction

XIII. What Technical Correction Is EPA Making in Today's Rulemaking?

In today's final rule, we also are correcting an error made in a previous notice. In the final rule published June 8, 2000, ''Organobromines Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Final Rule and Correcting Amendments' (65

FR 36365), the entry for listed hazardous waste code U048 (o-Chlorophenol) in Table 1 of Appendix VII to 40 CFR part 268 (''Effective Dates of Surface Disposed Wastes (Non-Soil and Debris) Regulated in the LDRs-Comprehensive List'') was inadvertently removed. Today we are amending Table 1 of Appendix VII to 40 CFR part 268 to reinsert the entry for hazardous waste code U048. The LDR effective date for this waste code (all waste categories) was August 8, 1990.

List of Subjects

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Waste treatment and disposal.

40 CFR Part 268

Hazardous waste, Reporting and recordkeeping requirements.

Dated: April 30, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

2. Section 261.3 is amended by removing and reserving paragraph (a)(2)(iii) and revising paragraph (a)(2)(iv) and the first sentence of paragraph (c)(2)(i); and by adding paragraphs (g) and (h) to read as follows:

§ 261.3 Definition of hazardous waste.

(a) * * *

(2) * * *

(iii) [Reserved]

(iv) It is a mixture of solid waste and one or more hazardous wastes listed in subpart D of this part and has not been excluded from paragraph (a)(2) of this section under 40 CFR 260.20 and 260.22, paragraph (g) of this section, or paragraph (h) of this section; however, the following mixtures of solid wastes and hazardous wastes listed in subpart D of this part are not hazardous wastes (except by application of paragraph (a)(2)(i) or (ii) of this section) if the generator can demonstrate that the mixture consists of wastewater the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act (including wastewater at facilities which have eliminated the discharge of wastewater) and;

* * * * *

(c) * * *

(2) (i) Except as otherwise provided in paragraph (c)(2)(ii), (g) or (h) of this section, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash emission control dust, or leachate (but not including precipitation run-off) is a hazardous waste. * * *

* * * * *

(g)(1) A hazardous waste that is listed in subpart D of this part solely because it exhibits one or more characteristics of ignitability as defined under § 261.21, corrosivity as defined under § 261.22, or reactivity as defined under § 261.23 is not a hazardous waste, if the waste no longer exhibits any characteristic of hazardous waste identified in subpart C of this part.

(2) The exclusion described in paragraph (g)(1) of this section also pertains to:

(i) Any mixture of a solid waste and a hazardous waste listed in subpart D of this part solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity as regulated under paragraph (a)(2)(iv) of this section; and

(ii) Any solid waste generated from treating, storing, or disposing of a hazardous waste listed in subpart D of this part solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity as regulated under paragraph (c)(2)(i) of this section.

(3) Wastes excluded under this section are subject to part 268 of this chapter (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.

(h)(1) Hazardous waste containing radioactive waste is no longer a hazardous waste when it meets the eligibility criteria and conditions of 40 CFR part 266, Subpart N (''eligible radioactive mixed waste'').

(2) The exemption described in paragraph (h)(1) of this section also pertains to:

(i) Any mixture of a solid waste and an eligible radioactive mixed waste; and

(ii) Any solid waste generated from treating, storing, or disposing of an eligible radioactive mixed waste.

(3) Waste exempted under this section must meet the eligibility criteria and specified conditions in 40 CFR 266.225 and 40 CFR 266.230 (for storage and treatment) and in 40 CFR 266.310 and 40 CFR 266.315 (for transportation and disposal). Waste that fails to satisfy these eligibility criteria and conditions is regulated as hazardous waste.

PART 268—LAND DISPOSAL RESTRICTIONS

3. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Appendix VII to Part 268—[Amended]

4. Appendix VII to part 268 Table 1 is amended by adding the following wastestream in alphanumeric order (by the first column) to read as follows:

Waste code	Waste category	Effective date
* * * * * * *		
U048	All	Aug. 8, 1990.

[FR Doc. 01–11411 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Wednesday,
May 16, 2001

Part III

Department of Energy

Privacy Act of 1974; Publication of Compilation of Privacy Act Systems of Records; Notice

DEPARTMENT OF ENERGY

Privacy Act of 1974; Publication of Compilation of Privacy Act Systems of Records

AGENCY: Department of Energy.

ACTION: Publication of Department of Energy (DOE) compilation of Privacy Act Systems of Records and notice of intent to publish proposed new systems of records.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a, and the Office of Management and Budget (OMB) Circular A–130, the DOE is publishing the compilation of the Privacy Act systems of records of the agency. This notice reflects various significant and administrative changes to existing systems of records and identifies proposed new systems of records.

DATES: Any interested person may submit written comments concerning the proposed changes to DOE's Privacy Act System of Records by June 15, 2001. Except for proposed exemptions that require separate notice and comment rulemaking, the changes proposed in this notice will be effective on July 2, 2001 unless DOE receives comments that require a contrary determination. DOE will publish a document in the **Federal Register** notifying the pubic if any changes are necessary.

ADDRESSES: Written comments should be directed to Abel Lopez, Director, Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, MA–73, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Abel Lopez, Director, Freedom of Information Act and Privacy Act Division, MA–73, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–5955; Verlette Moore, Freedom of Information Act and Privacy Act Division, MA–73, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–5958; and Isiah Smith, Office of General Counsel, GC–80, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8618.

SUPPLEMENTARY INFORMATION:

I. Background
II. Proposed Amendments to Existing Systems of Records
III. Establishment of New Systems of Records
IV. Discussion of Deletion Notices
V. Comment Procedures
VI. Table of Contents of All DOE Systems of Records as Adopted or Proposed

I. Background

This notice provides an accurate and complete text of notices for the sixty systems of records established under the Privacy Act by the DOE. The last compilation of the Department's systems of records was published at 47 FR 14306, April 2, 1982. Since that time, the DOE has published several notices to establish new systems of records and to amend published systems.

The Department's previous compilation included appendices that listed the DOE locations where the records are maintained and the routine uses applicable to the various systems. We have determined that the proposed system notices will be a more useful tool to the subject of the records if all information related to each of the particular systems is incorporated into the individual notices. Each system notice will provide a more accurate description of the systems of records, identify the purpose and authority for collecting and maintaining the information, reflect administrative changes that have been made, identify the appropriate DOE locations, and incorporate all routine uses. In addition, this **Federal Register** notice proposes new routine uses for existing systems of records and establishes seven new systems of records.

II. Proposed Amendments to Existing Systems of Records

DOE–1 Personnel and General Employment Records

This notice proposes to change the name of ''DOE–1 Personnel and General Employment Records'' to ''DOE–1 Grievance Records.'' The notice also will expand the categories of records maintained in the system and establish three new routine use provisions.

The system currently encompasses all personnel and general employment records for Federal employees at the DOE. With the exception of grievance records, the maintenance of general employment records in the system duplicates ''OPM Gov't–1 Personnel Records,'' the government-wide system of records of the Office of Personnel Management (OPM). Therefore, the Department will no longer maintain a system for these records.

The amended system will maintain only grievance records subject to the negotiated grievance process under DOE 3771.1, ''Grievance Policy and Procedures.'' The records in this system will be used by management officials in the resolution of employee concerns about working conditions, administration of collective bargaining agreements, employee-supervisor relations, work processes, or other similar issues.

The categories of records maintained in the system of records will include those records covered by the DOE and administrative grievance process and a negotiated grievance process, security clearance documents, management reports, witness statements, affidavits, checklists, and notes.

This notice also proposes to establish three new routine use disclosures for the system of records. The three proposed routine uses will allow disclosure of information maintained in the system (1) to union officials acting in their official capacity as a representative of the grievant or affected employees under 5 U.S.C. 7121; (2) to an appropriate Federal, State, or local agency that is authorized to review and resolve the issue(s) raised in the grievance; and (3) to another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Department is a party to the judicial or administrative proceeding. These routine uses are compatible with the purpose for which the information is being collected and maintained.

DOE–5 Personnel Records of Former Contractor Employees

This notice proposes to amend ''DOE–5 Personnel Records of Former Contractor Employees'' by establishing a new routine use disclosure pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000. The proposed routine use will allow disclosure of information maintained in the system to the Department of Health and Human Services, its contractors, grantees, and cooperative agreement holders, to estimate radiation doses and other workplace exposures received by Department of Energy federal and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

DOE–8 Intergovernmental Personnel Act (IPA) Contracts

This notice proposes to amend ''DOE–8 Intergovernmental Personnel Act (IPA)

Contracts'' by expanding an existing routine use provision and modifying how the records are stored. Presently, records are maintained in paper medium. The storage of the records has been modified to include records maintained in an on-line database. Automation of the documents will improve the management of paper records. Access to records in the system is limited to those whose duties require access to the records and is completely password protected. Hard copies of the same records are stored in locked metal or office file cabinets.

This notice proposes to expand an existing routine use disclosure. Presently, information may be disclosed to State and local governments and institutions of higher education for the purpose of assigning individuals for temporary periods. The proposed routine use provision will be expanded to include disclosure of information to federally funded research and development centers. The proposed expanded routine use disclosure is compatible with the system's purpose to maintain information used to provide payments under the terms of the personnel agreements, and to provide employment histories and information for reports and program evaluations to a Federal agency in connection with the hiring or retention of an employee.

DOE–18 Accounts Payable Financial System

This notice proposes to amend the categories of individuals section to include contractor employees of the Agency who are due monies from the Department.

DOE–23 Property Accountability System

This notice proposes to amend the categories of individuals and the categories of records sections, and to add a new routine use disclosure. The categories of individuals will be expanded to include contractor employees of the Agency who are authorized to be custodians of controlled DOE equipment. The categories of records maintained in the system will be expanded to include information about the equipment such as date of purchase; cost price; purchase order number; property tag identification; status/date; condition of property; operation number; high risk field; and disposal code.

The proposed new routine use disclosure will allow the disclosure of information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency. A routine use disclosure will be made to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

The proposed new routine use disclosure is compatible with the system's purpose to provide inventories to satisfy other Federal Procurement Management Regulations (FPMR) requirements; to maintain records of the location of emergency equipment; to control equipment; to document assignments authorized under union contracts; to provide management information necessary for the budgeting and allocation of equipment; and to provide evidence of assignment, location, and value in the event that Government property is stolen.

DOE–24 Land Record System

This notice proposes to amend the system by establishing two new routine use provisions. The new routine uses will permit the disclosure of information to the Internal Revenue Service to provide notification of individuals who have received payment exceeding $600.00 on any one land right transaction, and disclosure to the Department of Justice to provide support of land right condemnation actions. These disclosures are compatible with the system's purpose to maintain and track land rights information resulting from property rights acquisitions, outgrants, licenses, transfers, exchanges, encroachments, disposals, and construction and maintenance programs.

DOE–25 Employee Parking Records

This notice proposes to change the name of ''DOE–25 Employee Parking Records'' to ''DOE–25 U.S. Department of Energy Commuter Locator and Parking Space Information System.'' This notice also proposes to amend the system of records by establishing a new routine use provision.

The proposed new routine use provision will permit the disclosure of information to the Council of Governments who will provide information about car pools and van pools to commuters seeking to make commuter connections. This disclosure is compatible with the system's purpose to maintain information of existing car pools, van pools, and other categories of parking for a current record of employees who commute to work.

DOE–26 Official Travel Records

This notice proposes to amend ''DOE–26 Official Travel Records'' by expanding the categories of individuals and categories of records sections, and to add a new routine use disclosure. The categories of individuals will be expanded to include individuals who relocate at the Department's expense. The categories of records maintained in the system also will be expanded to include charge card account numbers, residential sales records, and receipts.

The proposed routine use disclosure will allow transmittal of information maintained in the system of records to the General Services Administration for the audit of transportation services. The proposed new routine use disclosure is compatible with the system's purpose to document official domestic and foreign travel, relocation expenditures, foreign travel approval and reimbursement of allowable expenses.

DOE–33 Personnel Medical Records

This notice proposes to amend ''DOE–33 Personnel Medical Records'' by establishing a new routine use disclosure pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000. The proposed routine use will allow disclosure of information maintained in the system to the Department of Health and Human Services, its contractors, grantees, and cooperative agreement holders, to estimate radiation doses and other workplace exposures received by Department of Energy federal and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. This routine use is compatible with the purpose for which the information is being collected and maintained. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

DOE–34 Employee Assistance Program (EAP)

The DOE published for public comment in the **Federal Register** an amendment to an existing system of records on May 13, 1996. The amendment expanded the system's scope to include records on assistance on all behavioral problems or issues. The existing system covers only those records relating to counseling and

referral services to resolve alcohol and/or drug counseling and records relating to referral services to resolve alcohol and/or drug abuse problems.

Records from this system will be used to provide information to the employee assistance program provider, program coordinator, and program evaluators to assist in the operation of the program. The information also will be provided to appropriate Departmental management officials regarding possible health, safety, or security risks.

The number of system locations was increased to include the offices of the Departmental service providers (counselors) when their offices are off-site. The categories of individuals covered also was amended to include former employees. The categories of records in the system now includes a detailed employee profile, interest inventory and/or psychological test results, issue inventory, case notes, consent/release forms, and psychological reports.

The new routine uses permit the disclosure of information maintained in the system of records to (1) the Department's contractors and their personnel who provide services to the Program who have a need for the records in the performance of their duties; (2) appropriate officials of law enforcement agencies, government and social service agency officials, and court officials if the employee is suspected of child, spousal, or elder abuse; (3) any person or entity to the extent necessary to prevent an imminent or potential crime that directly threatens loss of life or serious bodily injury; (4) qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report, or otherwise disclose patient identities in any manner; and (5) the Department of Justice or other appropriate Federal agencies in defending claims against the United States, when the claim results from action against an individual based upon the individual's behavior or mental or physical condition, or is alleged to have arisen because of activities of any Federal agency in connection with the individual. These routine uses do not apply to records maintained in the system of records that pertain to alcohol and substance abuse that are subject to the more restrictive confidentiality constraints set forth at Title 42, United States Code, section 290 dd–2, and Title 42, Code of Federal Regulations, part 2.

The proposed notice published in 1996 also deleted the routine uses listed for the system in the Department's complete compilation of Privacy Act systems of records at 47 FR 14306, and subsequent **Federal Register** republications. All intended disclosures of information maintained in the system are included in the proposed routine uses to be established in this notice.

Response to Comment Received—One comment was received in response to the amendments to the system in 1996. The comment addressed the disclosure of records to the employee's supervisor when the employee waives confidentiality. The commenter opposed allowing an employee's supervisor access to EAP records under any circumstances. The commenter states that when a waiver of confidentiality has occurred, it is acceptable for an EAP provider to discuss information with a supervisor, but not to release records. DOE agrees with this comment and is revising the Purpose section of the system to address this comment. Accordingly, the Purpose section is revised to read as follows:

> These records are used by the Department of Energy to maintain documentation on employees seeking assistance on behavioral problems or issues. Records from this system will be used to provide information to the employee assistance program provider, program coordinator, and program evaluators to assist the operation of the program. In cases of employee supervisor initiated referrals, information will be discussed with the employee's supervisor if the employee waives confidentiality, but documents will not be provided. The information also will be provided to appropriate Departmental management officials regarding possible health, safety, or security risks.

DOE–35 Personnel Radiation Exposure Records

This notice proposes to amend ''DOE–35 Personnel Radiation Exposure Records'' by establishing a new routine use disclosure pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000. The proposed routine use will allow disclosure of information maintained in the system to the Department of Health and Human Services, its contractors, grantees, and cooperative agreement holders, to estimate radiation doses and other workplace exposures received by Department of Energy federal and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. This disclosure is compatible with the purpose for which the information is being collected and maintained. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

DOE–41 Legal Files (Claims, Litigation, Criminal Violations, Patents, and Others)

This notice proposes to amend ''DOE–41 Claims, Litigation, Criminal Violations, Patents, and Others'' by modifying how the records are stored. Records now are maintained in paper medium. The storage section will be modified to include electronic generated records. Maintenance of electronic records improves the management of paper records by using current technology to reduce redundant processes, multiple copying, and misfiling of correspondence. Access to the records will be on a need to know basis. All records containing personal information will be maintained in secured file cabinets or in files accessible only by authorized personnel. Access doors will be locked when offices are vacant and access to computerized files is password protected.

DOE–43 Personnel Security Clearance Files

This notice proposes to amend ''DOE–43 Personnel Security Clearance Files'' by establishing a new routine use provision. The proposed new routine use will permit disclosure of information to competent medical authorities who, under a formal agreement for payment of services with the local DOE personnel security elements, conduct evaluations under 10 CFR part 710. These evaluations are conducted to determine whether an individual has an illness or mental condition of a nature that causes or may cause a significant defect in judgment or reliability, or is alcohol dependent or suffering from alcoholism.

DOE–46 Clearance Board Cases

This notice proposes to change the name of the system from ''DOE–46 Clearance Board Cases'' to ''DOE–46 Administrative Review Files.'' The proposed name reflects the administrative review proceedings that determine a DOE access authorization eligibility of an individual. The categories of individuals section has been revised to provide greater specificity about the individuals covered by the system. In addition, this notice more clearly identifies the records that are currently maintained in

connection with the process established at 10 CFR part 710.

DOE–48 Security Education and/or Infraction Reports

This notice proposes to amend ''DOE–48 Security Education and/or Infraction Reports'' by modifying how the records are stored. Records now are maintained in paper medium. The storage section is being amended to include electronic records. Maintenance of electronic records and a database improves the management of paper records by using current technology and allows better tracking of security infractions issued and security training taken by individuals. Access is limited to employees with a need-to-know. Records are stored in secured areas.

DOE–49 Security Correspondence File

The last compilation of DOE's Privacy Act system of records was published on April 2, 1982. This publication included the system of records notice for DOE–49 Security Correspondence File. On November 27, 1998, this system of records was inappropriately deleted from DOE's inventory. For this reason, the DOE is republishing ''DOE–49 Security Correspondence File.'' This notice proposes to change the name to ''DOE–49 Security Communications File'' and to amend how the records are stored.

The records are being compiled by DOE as part of it's efforts to adequately carry out its physical security responsibilities by creating and maintaining profiles of all individuals who have made threats of any kind, and through any medium, against DOE officials, DOE employees, DOE contractor employees, DOE facilities and/or DOE buildings. Information maintained in the system will consist of threat correspondence received from individuals, as well as individuals who have been identified from articles in the new media as being potential threats to the Department, its employees, and facilities. The records will consist of information obtained from the subject individual, complainants, witnesses, agency files and records, official federal, state or local records and publicly available information. The records will be stored as paper records, microfiche, and electronic media.

The system is being establish under the authority vested in the Secretary contained in 42 U.S.C. 7101 *et seq.*, and 52 U.S.C. 2401 *et seq.* The system also will satisfy the requirements of E.O. 12958, ''Classified National Security Information'' (April 17, 1995).

The system will be exempt from subsections (k)(1), (k)(2), and (k)(5) of the Privacy Act, to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1) of the Act; see the Department's Privacy Act regulation at 10 CFR 1008.12(b). The DOE Privacy Act regulation has been amended to allow these exemptions.

DOE–50 Personnel Assurance Program Records

This notice proposes to amend ''DOE–50 Personnel Assurance Program Records'' by modifying how the records are stored. Presently, records are maintained in paper medium. The storage section is being amended to include computer database files. Maintenance of electronic records improves the management of paper records by using current technology to provide greater access to the records. Access is limited to those employees with a need-to-know. All records are stored in locked file cabinets in secured buildings.

DOE–51 Employee Visitor and Access Control Records

This notice proposes to amend ''DOE–51 Employee Visitor and Access Control Records'' by expanding the categories of individuals section, expanding an existing routine use provision, and modifying how the records are stored. The section for categories of individuals also will include DOE contractor employees seeking access to DOE facilities and classified records.

This notice also proposes to expand an existing routine use disclosure. Presently, records may be disclosed to the Department of Defense to authorize access to classified information and areas. This proposed routine use will be amended to include disclosure of information to the National Aeronautics and Space Administration. The proposed routine use disclosure is compatible with the system's purpose to control access to Departmental facilities to those with proper identification.

This notice also proposes to amend the system by modifying how the records are stored. Presently, records are maintained in paper medium. The storage section is being amended to include an automated database. The database may contain the clearance history of an individual, access identification information, and photographs. Maintenance of electronic records improves the management of paper records by using current technology to provide greater access to the records. Access is limited to employees with a need-to-know. Records are stored in a secure area.

DOE–52 Alien Visits and Participation

This notice proposes to amend the system and change the name from ''DOE–52 Alien Visits and Participation'' to ''DOE–52 Access Control Records of International Visits, Assignments, and Employment at DOE Facilities and Contractor Sites.'' The categories of individuals and the categories of records sections are more detailed. They are amended to more clearly identify the individuals and records covered by the system. In addition, the locations where the records are maintained have been expanded to include all DOE facilities and contractor facilities.

The storage section is being amended to include files on electronic media. Maintenance of electronic records improves the management of paper records by using current technology. In addition, it provides greater access to the records and improves the tracking of security infractions and security training. Access is limited to employees with a need-to-know.

DOE–55 Freedom of Information Act and Privacy Act (FOIA/PA) Requests for Records

This notice proposes to amend ''DOE–55 Freedom of Information and Privacy Act (FOIA/PA) Requests for Records'' by expanding the section of categories of records, establishing two new routine use provisions, and modifying how the records are stored.

The categories of records section is being amended to include the identity of the FOIA/PA Division analyst assigned to process requests and case notes for requests.

The new routine uses permit disclosures of information maintained in the system to another Federal agency to consult on or refer requests for processing, and to a Federal agency, court of law, or party in litigation or administrative proceeding challenging or seeking to enjoin actions by the Department under the FOIA or PA. This new routine use is compatible with the system's purpose to determine the actions taken on FOIA and PA requests to produce statistical reports and for case management.

This notice also will amend how records are stored and retrieved. Records now are stored in paper and microfiche media. Records will be stored in an optical imaging system database, where records are scanned and stored in an electronic media. Records include video, audio, and electronic media files. Maintaining

information electronically will improve the management of the records and is in compliance with the Electronic Freedom of Information Act Amendments to the FOIA. Information will be retrieved by name and case number. Computerized files are password protected, and paper records are stored in locked metal file cabinets. Access to the records will be limited to a need-to-know basis.

DOE–56 Congressional Constituent Inquiries

The notice proposes to amend ''DOE–56 Congressional Constituent Inquiries'' by establishing two new routine use disclosures. This notice will allow records to be disclosed to another Federal agency when consultation or referral is required to process the request. In addition, records from this system may be disclosed to members of Congress on behalf of their constituents, and to the Department's contractors in performance of their contracts and their officers and employees who have a need for the record to perform their duties. These parties will be subject to the same limitations applicable to the Department's officers and employees under the Privacy Act. The new routine uses are compatible with the system's purpose to track inquiries by members of Congress on behalf of constituents, to ensure proper document control of the response, and to record the Department's responses to such inquiries.

This notice also will amend how the records are stored. Records now will include electronic records. Maintaining information electronically will improve the management of executive correspondence in the Department using current technology to reduce redundant processes, multiple copying, and misfiling of correspondence. Access to the records is limited to a need-to-know basis. The records are password protected.

DOE–57 Congressional Profiles

Records from this system will be used by DOE personnel, particularly those in the Office of Congressional Affairs, who need to be informed about energy issues of interest to members of Congress and to have available minimal biographical information on each member and the member's district or State. Maintaining the information will enable DOE to be better informed and more responsive in its interactions with Congress. For this reason, DOE will collect and maintain publicly available information derived from information releases by members' offices, abstracts from the Congressional Record, committee hearings, and other published or public sources. This information will be maintained by the name of each individual member of the current Congress.

The storage of these records was previously reported as paper records and computer printouts. This notice will amend and modify this section of the systems notice to include storage of the records on electronic format.

DOE–58 General Correspondence Files of the Office of the Secretary of Energy

Records in this system consist of correspondence written to the Secretary, Deputy Secretary, and Under Secretary of Energy. The system of records has been amended to expand the categories of individuals who are covered by the system to include all individuals who communicate by letter with the Secretary, Deputy Secretary, and Under Secretary. This section will include members of Congress, representatives of organizations, other Federal and state agencies, and the general public.

At present, the records maintained in the system are only paper records. This notice proposes to amend the storage section of the system to include databases and electronic images. The records will be stored in an optical imaging system database, where records are scanned and stored in an electronic medium. Maintaining information electronically will improve the management of executive correspondence in the Department using current technology to reduce redundant processes, multiple copying, and misfiling of correspondence. The records are password protected. Access to the records is limited to a need-to-know basis.

DOE–62 Historical Files—Published Information Concerning Selected Persons in the Energy Field

The History Division in the Office of the Executive Secretariat of the DOE is responsible for assembling significant materials about the history of the Federal role in energy development in the United States. In furtherance of this function, published information from newspaper and magazine articles, press releases, announcements, and speeches is collected and maintained about individuals who are prominently involved in historic events of interest to the energy community. These materials are used to prepare official histories and to respond to specific requests for historical information.

The previously published notice described one routine use disclosure to members of the public and media. This notice will amend the system by adding three proposed new routine use disclosures. The proposed new routine use disclosures will permit disclosure of information (1) to another Federal agency when consultation or referral is required to process requests; (2) to a congressional office submitting a request or inquiring about a request on behalf of a constituent who is the subject matter of the record; and (3) to DOE contractors to perform their duties in accordance with the same limitations applicable to the DOE officers and employees under the Privacy Act. These proposed routine uses are compatible with the purpose of preparing histories to respond to informational inquiries from members of the public and from DOE officials.

DOE–71 The Radiation Accident Registry

This notice proposes to amend ''DOE–71 Radiation Accident Registry'' by establishing a new routine use disclosure pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000. The proposed routine use will allow disclosure of information maintained in the system to the Department of Health and Human Services, its contractors, grantees, and cooperative agreement holders, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. This disclosure is compatible with the purpose for which the information is being collected and maintained.

DOE–72 The DOE Radiation Study Registry

This notice proposes to amend ''DOE–72 The DOE Radiation Study Registry'' by establishing a new routine use disclosure pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000. The proposed routine use will allow disclosure of information maintained in the system to the Department of Health and Human Services, its contractors, grantees, and cooperative agreement holders, to estimate radiation doses and other workplace exposures received by Department of Energy Federal and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions,

methodology, and data used in establishing radiation doses consistent with the protection of private medical records. This disclosure is compatible with the purpose for which the information is being collected and maintained.

DOE–73 The US–DPTA Registry

This notice proposes to amend ''DOE–73 The US–DPTA Registry'' by establishing a new routine use disclosure. The proposed routine use will allow disclosure of information maintained in the system to the Department of Health and Human Services, its contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy Federal and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public information on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. This disclosure is compatible with the purpose for which the information is being collected and maintained.

DOE–84 Counterintelligence Investigations

The DOE, as the successor agency to the Atomic Energy Commission, has broad responsibilities under the Atomic Energy Act (AEA) to direct the development, use, and control of atomic energy. These responsibilities include a specific mandate to protect sensitive and classified information and materials involved in the design, production, and maintenance of nuclear weapons, and a general obligation to ensure that permitting an individual to have access to information classified under the AEA will not endanger the nation's common defense and security. As an element of carrying out its national security mission, the DOE has instituted a more rigorous counterintelligence program to strengthen its protection of information and technologies in connection with DOE's atomic energy defense activities. This stronger counterintelligence program has emphasized selection and training of field counterintelligence personnel; counterintelligence analysis; counterintelligence and security awareness; protections against potential insider threats; computer security; improved coordination with the Federal Bureau of Investigation (FBI), the Central Intelligence Agency (CIA), and the National Security Agency (NSA); and the establishment of a counterintelligence evaluation program to include a counterintelligence-scope polygraph examination.

At 64 FR 70962 on December 17, 1999, the DOE published a final rule for the use of counterintelligence-scope polygraph examinations for certain DOE Federal and contractor employees, applicants for employment, and other individuals assigned or detailed to Federal positions at DOE. See 10 CFR part 709. The DOE now requires counterintelligence-scope polygraph examinations for individuals in positions with access to the most sensitive and classified information and materials in connection with DOE's atomic energy defense activities as a necessary, prudent measure to fulfill DOE's national security responsibilities.

An additional part of DOE's enhanced counterintelligence program is the establishment of a pilot program to monitor and analyze selected outgoing and incoming electronic mail (e-mail) from the DOE Sandia National Laboratories, Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Pacific Northwest National Laboratory, which are engaged in nuclear weapons design or work involving special nuclear material. The purpose of the pilot project at the national laboratories is to test whether e-mail monitoring is an effective device to address threats to DOE assets by foreign governments, groups, organizations or persons that attempt to gather classified and other protected information through e-mail communications with DOE Federal and contractor personnel.

In accordance with the Privacy Act, 5 U.S.C. 552a, DOE proposes to amend ''DOE–84, Counterintelligence Investigative Records'' by expanding the categories of records section and categories of individuals section. The amendment will expand the categories of records section to include hard copy as well as electronic versions of investigative reports, evaluations records, polygraph examination records and videotapes of polygraph sessions, and compact disks of e-mail.

In addition, as a result of the implementation of the DOE counterintelligence evaluation program to include the counterintelligence-scope polygraph examination, the categories of individuals section covered by the system also will be expanded to include employees and applicants for employment with DOE and its contractors (including subcontractors at all tiers), and individuals who may be assigned or detailed to Federal positions at DOE. There are eight program categories covered by the polygraph examination regulation. These include positions that DOE has determined include counterintelligence activities or access to counterintelligence sources and methods; positions requiring access to Sensitive Compartmented Information; positions requiring access to non-intelligence Special Access Programs; positions subject to the Personnel Assurance Program (PAP) or Personnel Security Assurance Program (PSAP); positions with a need-to-know or access to information specifically designated by the Secretary regarding the design and operation of nuclear weapons and associated use and control features; positions within the Office of Independent Oversight and Performance Assurance, or any successor thereto, involved in inspection and assessment of safeguards and security functions, including cyber-security, of the Department; and positions within the Office of Security and Emergency Operations, or any successor thereto. The categories of individuals also will include those individuals who voluntarily request a polygraph examination in order to respond to questions that have arisen in the context of a counterintelligence investigation. These last examinations are referred to as exculpatory polygraph examinations. The categories of individuals also will be expanded as a result of the e-mail analysis pilot project to include users of the e-mail systems at the Sandia National Laboratories, Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Pacific Northwest National Laboratory.

Hard copy and electronic versions of investigative records and counterintelligence evaluation records, except polygraph records and videotape and e-mail records, contained in this system of records may be maintained at DOE Headquarters or other DOE sites listed below. The polygraph records and videotapes will be maintained only at the DOE Test Center, Albuquerque, NM, 87106, and at DOE, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585. The records will be stored as paper records, electronic records, and videotapes. The polygraph records are safeguarded in locked cabinets and electronic records are password protected. Access is limited to authorized staff only.

The e-mail records will be maintained only at the DOE Sandia National Laboratories, Los Alamos National Laboratory, Lawrence Livermore National Laboratory, Pacific Northwest National Laboratory, and at DOE

Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585. The records will be stored as electronic records on compact disks. The e-mail records are safeguarded in locked cabinets, and access is limited to authorized staff only.

The polygraph examinations are authorized by the National Defense Authorization Act of Fiscal Year 2000, Pub. L. 106–65 section 3154; the Employee Polygraph Protection Act, Pub. L. 100–347; 29 U.S.C. 2006 (b)(1)(B); Executive Order 12958, Classified National Security Information (April 17, 1995); Executive Order 12968, Access to Classified Information (August 2, 1995); and Presidential Decision Directive-61.

The pilot e-mail analysis project is authorized by the Electronic Communications Privacy Act, Pub. L. 99–508, 18 U.S.C. 2510 *et seq.,* Executive Order 12333, and the DOE Procedures for Intelligence Activities.

DOE–88 Epidemiologic and Other Health Studies, Surveys and Surveillances

This notice proposes to amend ''DOE–88 Epidemiologic and Other Health Studies, Surveys and Surveillances'' by establishing a new routine use disclosure pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000. The proposed routine use will allow disclosure of information maintained in the system to the Department of Health and Human Services, its contractors, grantees, and cooperative agreement holders to estimate radiation doses and other workplace exposures received by Department of Energy Federal and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. This disclosure is compatible with the purpose for which the information is being collected and maintained.

III. Discussion of New Systems of Records

DOE–3 Employee Concerns Program Records

The Department of Energy (DOE) proposes to establish a new system of records entitled ''DOE–3 Employee Concerns Program Records.'' The DOE recognizes that free and open expression pertaining to the concerns of DOE Federal and contractor and subcontractor employees is essential to accomplishing DOE's mission. The employees have the right and responsibility to report concerns relating to the environment, safety, health, or management of Department operations. The Employee Concerns Program is designed to encourage open communication; inform employees of the proper forum for consideration of their concerns; ensure employees can raise issues without fearing reprisal; address employee concerns in a timely and objective manner; and provide employees an avenue for consideration of concerns that fall outside existing systems.

The categories of records maintained in the system will include concerns or complaints brought to the attention of the appropriate Employee Concerns Program office. This can include the receipt of complaints filed under 10 CFR part 708, Department of Energy Contractor Employee Protection Program, informal complaints; names; social security numbers; work and home address and telephone numbers; job titles; job series; grade or pay levels; organization; supervisor names and telephone numbers; copies of employee records such as personnel actions; performance appraisals; pay and leave records and security clearance documents; management reports; witness statements; affidavits; checklists; and notes. The records maintained in this system will be used by the Department Employee Concerns Program offices to document concerns brought to their attention and to assist in the resolution of concerns about various work-related issues including the environment, safety, health, employer-supervisor relationships, or work processes and practices.

The records will be maintained at all Department Employee Concerns Program offices at DOE Headquarters and Field offices. The categories of individuals covered will include current and former DOE employees, and current and former DOE contractor and subcontractor employees who have filed appropriate concerns.

This system proposes five new routine use disclosures. The five proposed routine uses will allow disclosure to designated representatives, including union or legal representatives, acting in their official capacity on behalf of the employee raising a concern or complaint; to a member of Congress or their staff when submitting a request involving a constituent and the constituent has requested assistance with respect to the subject matter of the record; to an appropriate Federal, State or local agency that is authorized to review and resolve or assist in the resolution of the concern or complaint; to another Federal agency; to a court, or a party in litigation before a court or in an administrative proceeding being conducted by or at the request of the Department or another Federal agency; and to a contractor or subcontractor of the Department that is authorized or responsible to review and resolve the issue(s) raised in the concern or complaint, including a mediator, facilitator, or arbitrator. These routine uses are compatible with the purpose of the system enabling the Department to document and resolve employee concerns about environmental, safety and health issues, employee-supervisor relations, work processes and practices, and other work-related issues.

The DOE proposes to exempt this system from subsections (k)(1), (2), and (5) of the Privacy Act, 5 U.S.C. 552a, to the extent that information within the system meets the requirements of those subsections of the Act. The system will further be exempted from subsections (c)(3), (d), and (e)(1) of 5 U.S.C. 552a to the extent the information in this system of records is exempt pursuant to 5 U.S.C. 552a(k)(1), (2), and (5). See DOE Privacy Act Regulation at 10 CFR part 1008.12(b). The DOE Privacy Act regulation will be amended to allow these exemptions by publishing a separate proposed rulemaking under RIN: 1901–AA69.

The records in this system will be stored both in paper hard copy and in an automated database.

DOE–4 EIA-Form 457 Residential Energy Consumption Survey

On April 20, 1983, the DOE established a new system of records entitled ''EIA Residential Energy Consumption Survey'' (RECS). This system of records was grouped with an existing system of records ''DOE–67 Participants in Experiments Studies and Surveys'' and published as Subsystem C ''EIA Residential Energy Consumption Survey'' at 48 FR 16959. On November 27, 1998, DOE–67 and all of its subsystems were inappropriately deleted at 63 FR 65575. Documents within Subsystem C, are still required and maintained by the Energy Information Administration (EIA).

For this reason, the DOE is republishing the portion of DOE–67 that covered records maintained in Subsystem C. This notice proposes to change the name to ''DOE–4 EIA-Form 457 Energy Survey Report—Residential Energy Consumption Survey (RECS).''

Data is collected by the EIA to satisfy the needs of the U.S. Government, State governments, industry, and the public

for information at the national and sub-national levels on the consumption of and expenditures for fuels used by American homes. The data includes energy-related housing characteristics, appliance use, thermal characteristics of the housing unit, household vehicles, conservation measures taken by the household, demographic features of the household and weather conditions. The EIA disseminates this data through published reports used by a wide range of public and private groups, special statistical reports to U.S. Government agencies, and distribution of the basic data on computer data files properly edited to protect the identity of the household.

The data in the system of records will be collected by Roper Starch Worldwide, Inc. The information will be used by government and private groups for monitoring, modeling, and policymaking about energy use in U.S. households. In order to preserve the confidentiality of the data and to protect the privacy of the respondents, no individually identifiable data will be released.

DOE–6 EIA Customer Database

The DOE is proposing to establish a new system of records entitled ''DOE–6 EIA Customer Data Base.'' The EIA of the DOE is developing a program to gather data about its products and services provided to its customers. The data collection pertains largely to companies that request energy related information. However, there are occasions when private citizens request energy related information. The EIA will collect and maintain the names of its customers, business addresses and telephone numbers, description of information requested, and description of service(s). This data will be analyzed and evaluated by EIA staff personnel to account for orders and subscriptions and to better understand the needs and interests of its customers. The data may be retrieved under categories of records. The information will be maintained in computer programs and accessible to password holders in secured offices.

The system is being established under the authority vested in the Secretary contained in 42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.* The records also are maintained to better understand, control, and prepare for the work flow of the office and meeting the customers' needs. As a result, DOE does not believe the maintenance of this system will have any substantial effect on the privacy and other personal or property rights of the subject individuals. Access is restricted to authorized management personnel on a need-to-know basis.

DOE–7 Whistleblower Investigation, Hearing, and Appeal Records

DOE proposes to establish a new system of records entitled ''DOE–7 Whistleblower Investigation, Hearing, and Appeal Records.'' The records are being compiled by DOE as part of the Department's efforts to resolve whistleblower complaints, made by employees of DOE and by DOE contractors, at the investigatory, hearing, and appeal stages of a proceeding, for which the Office of Hearings and Appeals bears the responsibility. *See* Title 10, Code of Federal Regulations, part 708. These records will consist of information gathered, recorded, or processed in the course of the investigation of an allegation of acts of reprisal taken against a DOE employee or DOE-contractor employee who claims to have made a protected disclosure, as defined in those regulations, or in the course of a subsequent hearing or appeal. These records do not include the informal handling of whistleblower concerns in the Department's various Employee Concerns offices, nor files maintained at the Office of the Deputy Secretary concerning appeals from determinations made by the Director of the Office of Hearings and Appeals.

Information in the system will include whistleblower reprisal complaints; names and other identifying information about whistleblowers, their co-workers, their supervisors, and other individuals; employment records such as personnel actions and performance appraisals; witness statements and affidavits; notes taken by employees of the Office of Hearings and Appeals; reports of investigation; and correspondence related to the processing of the complaints.

The proposed new system will pertain to DOE employees and DOE-contractor employees who file reprisal complaints. Although the records contained in this system will be protected from disclosure in accordance with the provisions of the Privacy Act, the identity of the employee will be made known to his or her employer, because that entity will be provided with a copy of the complaint. *See* 10 CFR 708.11. Moreover, decisions, opinions, reports of investigation, orders and other determinations that the Office of Hearings and Appeals issues concerning such complaints are public documents and are published, along with our other decisions and orders, in a looseleaf service entitled Federal Energy Guidelines, as well as on the Office's website, the current address of which is http:/www.oha.doe.gov.

DOE proposes to exempt this system from subsections (k)(1), (2), and (5) of the Privacy Act, 5 U.S.C. 552a, to the extent that information within the system meets the requirements of those subsections of the Act. The system will further be exempted from subsections (c)(3), (d), and (e)(1) of 5 U.S.C. 552a to the extent the information in this system of records is exempt pursuant to 5 U.S.C. 552a(k)(1), (2), and (5). See DOE Privacy Act Regulation at 10 CFR 1008.12(b). The DOE Privacy Act regulation will be amended to allow these exemptions by publishing a separate proposed rulemaking under RIN: 1901–AA69.

DOE–10 Worker Advocacy Records

The Energy Employees Occupational Illness Compensation Program Act of 2000 (hereinafter the ''Act''), Pub. L. 106–398, provides that DOE assist workers with occupational illnesses to file State workers' compensation claims. DOE contractor employees with occupational illnesses that are not covered under the Federal program created by the Act can apply to the DOE Office of Worker Advocacy for help in obtaining State workers' compensation benefits. Under this effort, DOE will forward a worker's application to an independent panel of physicians appointed by the Secretary of Health and Human Services. The panel will determine whether the employee's illness or death was due to exposure to a toxic substance at a DOE facility. Based on a determination of work-relatedness, the Office of Worker Advocacy could assist the employee with a State claim for benefits, and DOE contractors would be directed not to contest claims before the State.

To adequately carry out the responsibilities given to DOE under the Act, the Office of Worker Advocacy will collect and maintain several types of records, e.g. medical records, employment records, to assist current and former DOE contractor employees or their families with the filing of State workers' compensation claims for conditions that may be due to exposures during employment by or for DOE. The assistance provided by this Office may include, but is not limited to the following: (1) Maintaining a helpline; (2) conducting outreach and educational programs; (3) providing referral assistance; and (4) case review. Although the primary focus is on DOE contractor employees, assistance may be provided to DOE Federal employees and employees of other agencies by directing them to the appropriate compensation programs, such as the Federal Employees Compensation Act program

administered by the Department of Labor.

Individually identifiable information will not appear in published or unpublished reports, studies, or surveys. The system, however, will contain records compiled to complete published or unpublished reports, studies, or surveys from which information may be retrieved by name or other personal identifier. Non-identifiable information regarding the assumptions, methodology, and data used in establishing radiation doses under section 3623(d) of the Energy Employees Occupational Illness Compensation Program Act of 2000 will be made available to researchers and the general public, consistent with the protection of private medical records.

DOE–12 Automated Materials and Property Systems (AMPS)

The DOE is proposing to establish a new system of records entitled ''DOE–12, Automated Materials and Property Systems (AMPS).'' The Department has established a Working Capital Fund (WCF) that charges benefitting programs and organizations for certain administrative and housekeeping activities traditionally funded in a central account. One of the activities is a central supply service for stock and non-stock supplies and equipment that are maintained to meet in whole or in part the requirements of the Department.

The AMPS will be used by the DOE to control the incoming and outgoing expendable supplies that are used by DOE Headquarters employees to perform their work. The system will maintain inventories and costs of all supply products; records on quantities of supplies at the warehouse and all self service stores; prices for all of the items in each location; and point of sale transactions at all locations. Receipts will be generated that provide information about purchasers from their DOE identification badges. Reports will be created to provide usage, trends, customers, dates of purchases, and other related information. This information is provided to the WCF for billing DOE program offices. The WCF issues bills to Headquarters program offices for both stock and non-stock supplies that were purchased for use by their employees.

DOE–15 Intelligence Related Access Authorization

The DOE is proposing to establish a new system of records entitled ''DOE–15 Intelligence Related Access Authorization.'' This system will consist of administrative records concerning DOE Federal and contractor employees, consultants and certain other persons applying for, granted, or denied access to certain categories of classified information. The purpose of the system is to satisfy the requirements of Executive Order 12333, ''United States Intelligence Activities,'' Executive Order 12958, ''Classified National Security Information'' (April 17, 1995); Executive Order 12968, ''Access to Classified Information'' (August 2, 1995); Presidential Decision Directive-61, U.S. Department of Energy Counterintelligence Program, the DOE Procedures for Intelligence Activities, and DOE Order 5670.1A, Management and Control of Foreign Intelligence. Under DOE Order 5670.1A, the Director of the Office of Intelligence is directed to control access to and use of Sensitive Compartmented Information (SCI) and other classified intelligence information bearing the Director, Central Intelligence (DCI), authorized control markings, and to approve access to SCI in compliance with DCI directives. The proposed system will contain information necessary for the Director, IN, to conduct eligibility determinations, adjudications, revocations, and appeals from denials and revocations. The system is being established under the authority vested in the Secretary contained in 42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.* Access will be limited to authorized staff only.

The DOE proposes to exempt this system from subsections (k)(1), (2), and (5) of the Privacy Act, 5 U.S.C. 552a, to the extent that information within the system meets the requirements of those subsections of the Act. The system will further be exempted from subsections (c)(3), (d), and (e)(1) of 5 U.S.C. 552a to the extent the information in this system of records is exempt pursuant to 5 U.S.C. 552a(k)(1), (2), and (5). See DOE Privacy Act Regulation at 10 CFR Part 1008.12(b). The DOE Privacy Act regulation will be amended to allow these exemptions by publishing a separate proposed rulemaking under RIN: 1901–AA69.

The seven proposed new systems identified above have been assigned reserve numbers that were previously assigned to systems of records that have been deleted or are being deleted with this notice.

IV. Discussion of Deletion Notices

During the review process of the systems of records established by DOE under the Privacy Act, DOE identified 35 record systems for deletion. These record systems either duplicate other governmental or departmental record systems, were obsolete, or were not record systems subject to the Privacy Act. The published notice of these deleted systems can be found at 47 FR 14285, April 2, 1982; 62 FR 61497, November 18, 1997; and 63 FR 65575, November 27, 1998. This notice also deletes nine additional DOE internal record systems.

We have determined that information maintained in six systems of records is no longer collected or maintained. These systems are ''DOE–12 Nationwide Traineeship Reporting System'; ''DOE–22 Plant Services History''; ''DOE–47 Security Investigation Records''; ''DOE–65 Energy Extension Service Records'; ''DOE–76 California, Utah, and Nevada Milk Directory''; and ''DOE–87 Human Radiation Helpline Records.''

DOE–40 Contractor Employee Insurance Claims'' currently covers Federal employees who sustain injuries while working on the job. It is not necessary for the DOE to maintain a record system of this type since these records are covered by the government-wide system DOL/GOV't-1 ''Office of Workers'' Compensation Programs, Federal Employees' Compensation Act File'' that is administered by the Department of Labor.

Information maintained in ''DOE–74 Bonneville Power Administration Conservation Program'' is retrieved by company or utility name and, therefore, does not constitute a Privacy Act system of records.

Information maintained in ''DOE–78 Pacific Northwest Residential Energy Survey'' is retrieved by company or utility name and, therefore, does not constitute a Privacy Act system of records.

Information maintained in ''DOE–27 Foreign Travel Records'' duplicates information in a DOE internal system, ''DOE–26 Official Travel Records.''

The following is a listing of all the record systems that DOE identified or has deleted from the Department's inventory of systems of records.

A. OBSOLETE

DOE–6

SYSTEM NAME:

Report of Consultants to DOE Contracts (Deleted November 18, 1997).

DOE–7

SYSTEM NAME:

Applications and Reference Checks for Overseas Employment with International Atomic Energy Agency (IAEA) (Deleted November 18, 1997).

DOE–12

SYSTEM NAME:

Nationwide Traineeship Reporting System (Deleted with this notice).

DOE–15

SYSTEM NAME:

Payroll and Pay Related Data for Employees of Terminated Contractors (Deleted November 27, 1998).

DOE–17

SYSTEM NAME:

Certificates of Eligibility for FHA Insured Loans (Deleted November 18, 1997).

DOE–22

SYSTEM NAME:

Plant Services History (Deleted with this notice).

DOE–29

SYSTEM NAME:

Technology Training Program—Skill Training at Technician Level (Deleted November 18, 1997).

DOE–30

SYSTEM NAME:

Nuclear Qualification Examination Records (Deleted April 2, 1982).

DOE–32

SYSTEM NAME:

Government Motor Vehicle Operator Records (Deleted November 27, 1998).

DOE–39

SYSTEM NAME:

Labor Standards Complaints & Grievances (Deleted November 27, 1998).

DOE–47

SYSTEM NAME:

Security Investigation Records (Deleted with this notice).

DOE–63

SYSTEM NAME:

Electric Rate Demonstration Data Base (Deleted April 2, 1982).

DOE–64

SYSTEM NAME:

Low-Income Weatherization Program Home Report Records (Deleted November 18, 1997).

DOE–65

SYSTEM NAME:

Energy Extension Service Records (Deleted with this notice).

DOE–68

SYSTEM NAME:

Minority Energy Technical Assistance Program (METAP) Records (Deleted November 18, 1997).

DOE–76

SYSTEM NAME:

California, Nevada, and Utah Milk Directory (Deleted with this notice).

DOE–78

SYSTEM NAME:

Clinch River Breeder Reactor Plant Work Force Survey (Deleted with this notice).

DOE–79

SYSTEM NAME:

Clinch River Breeder Reactor Plant Work Force Survey (Deleted November 27, 1998).

DOE–80

SYSTEM NAME:

Quality Assurance Training and Qualification Records (Deleted April 2, 1982).

DOE–87

SYSTEM NAME:

Human Radiation Helpline Records (Deleted with this notice).

B. DUPLICATES OTHER SYSTEMS OF RECORDS

DOE–3

SYSTEM NAME:

DOE Personnel Appraisal and Development Records (Deleted November 18, 1997. This system duplicates Office Personnel Management OPM/Gov't-2).

DOE–4

SYSTEM NAME:

Applications for DOE Employment (Deleted November 18, 1997. This system duplicates Office of Personnel Management OPM/Gov't-5).

DOE–10

SYSTEM NAME:

Office of General Counsel Time and Accountability Reports (Deleted November 27, 1998. This system duplicates DOE–13 Payroll and Leave Records).

DOE–16

SYSTEM NAME:

Reports of Financial Interest (Deleted November 18, 1997. This system duplicates Office of Government Ethics OGE/Gov't-1 and OGE/Gov't-2).

DOE 27

SYSTEM NAME:

Foreign Travel Records (Deleted with this notice. This system duplicates DOE internal system DOE–26 ''Official Travel Records'').

DOE–36

SYSTEM NAME:

Statistical Analysis Using Personnel Security Questionnaire (Deleted November 18, 1997. This system duplicates DOE–88 ''Epidemiologic and Other Health Studies, Surveys and Surveillances'').

DOE–37

SYSTEM NAME:

Equal Employment Opportunity Complaint Files (Deleted November 18, 1997. This system duplicates Equal Employment Opportunity Commission EEOC/Gov't-1).

DOE–40

SYSTEM NAME:

Contractor Employee Insurance Claims (Deleted with this publication notice. This system duplicates the Department of Labor DOL/Gov't-1 Office of Workers' Compensation Program Federal Employees' Compensation Act File).

DOE–42

SYSTEM NAME:

Personnel Security Clearance Index (Deleted November 27, 1998).

DOE–67

SYSTEM NAME:

Participants in Experiments Studies, and Surveys (Deleted November 27, 1998).

DOE–69

SYSTEM NAME:

Residential Solar Water Heating Workshops Pilot Program Records (Deleted November 18, 1997).

DOE–70

SYSTEM NAME:

Electricity Uses and Conservation Analysis Records (Deleted November 18, 1997).

C. NOT RETRIEVED BY NAME OR PERSONAL IDENTIFIERS

DOE–20

SYSTEM NAME:

Imprest Fund and Cashiers (Deleted November 18, 1997).

DOE–74

SYSTEM NAME:

Bonneville Power Administration Conservation Program (Deleted with this notice).

V. Comment Procedures

As provided by section 3(e)(11) of the Privacy Act of 1974, interested persons are invited to submit written data, views or comments related to these proposals to the U.S. Department of Energy, FOIA and Privacy Act Division, MA–73, 1000 Independence Avenue, SW., Washington, DC 20585. ''Comments'' should be written on the outside of the envelope and on the documents submitted to DOE with the designation ''Department of Energy Privacy Act Systems of Records Proposals.'' These comments and all other relevant information will be considered by DOE before the various proposals are adopted in their final form.

If no comments to the contrary are received with respect to a particular proposed system, it is the intent of the DOE to operate any such system as proposed at the expiration of the 45-day advance notice period for informing Congress and OMB of proposed new systems as defined in OMB Circular A–130.

The DOE is submitting the Reports on New Systems and Amended Systems required by OMB Circular A–130 concurrently with publication of the **Federal Register** Notice.

In consideration of the foregoing, the measures described above are proposed. Set forth below is the compilation of the DOE Privacy Act Systems of Records that includes a Table of Contents and the text of the individual systems of records.

Issued in Washington, DC on May 2, 2001.

Richard H. Hopf,

Acting Director, Office of Management and Administration.

VI. Table of Contents of All DOE Systems of Records as Adopted or Proposed

DOE–1 Grievance Records
DOE–2 Supervisory Maintained Personnel Records
DOE–3 Employee Concern Program Records (Proposed New System—DOE Assigned Number Is Being Re-issued)
DOE–4 Consumption Survey (RECS) (Proposed New System—DOE Assigned Number is Being Re-issued)
DOE–5 Personnel Records of Former Contractor Employees
DOE–6 EIA Consumer Data Base (Proposed New System—DOE Assigned Number is Being Re-issued)
DOE–7 Whistleblower Investigation, Hearings and Appeals Records (Proposed New System—DOE Assigned Number is Being Re-issued)
DOE–8 Intergovernmental Personnel Act (IPA) Contracts
DOE–9 Members of DOE Advisory Committees
DOE–10 Worker Advocacy Records (Proposed New System—DOE Assigned Number is Being Re-issued)
DOE–11 Emergency Locator Records
DOE–12 Automated Materials Property System (AMPS) (Proposed New System—DOE Assigned Number is Being Re-issued)
DOE–13 Payroll and Leave Records
DOE–14 Report of Compensation
DOE–15 Intelligence Related Access Authorization (Proposed New System—DOE Assigned Number is Being Re-issued)
DOE–16 Deleted—Reserved
DOE–17 Deleted—Reserved
DOE–18 Accounts Payable Financial System
DOE–19 Accounts Receivable Financial System
DOE–20 Deleted—Reserved
DOE–21 Emergency Defense Mobilization Files
DOE–22 Deleted—Reserved
DOE–23 Property Accountability System
DOE–24 Land Records
DOE–25 U.S. DOE Commuter Locator and Parking Space Information System
DOE–26 Official Travel Records
DOE–27 Deleted with this notice—Reserved
DOE–28 General Training Records
DOE–29 Deleted—Reserved
DOE–30 Deleted—Reserved
DOE–31 Firearms Qualifications Records
DOE–32 Deleted—Reserved
DOE–33 Personnel Medical Records
DOE–34 Employee Assistance Program
DOE–35 Personnel Radiation Exposure Records
DOE–36 Deleted—Reserved
DOE–37 Deleted—Reserved
DOE–38 Occupational and Industrial Accident Reports
DOE–39 Deleted—Reserved
DOE–40 Deleted—Reserved
DOE–41 Legal Files (Claims, Litigation, Criminal Violations, Patents, and Others)
DOE–42 Deleted—Reserved
DOE–43 Personnel Security Clearance
DOE–44 Special Access Authorization for Categories of Classified Information
DOE–45 Weapons Data Access Control System
DOE–46 Clearance Board Cases
DOE–47 Deleted with this notice—Reserved
DOE–48 Security Education and/or Infraction Reports
DOE–49 Security Communications File
DOE–50 Personnel Assurance Program Records
DOE–51 Employee and Visitor Access Control Records
DOE–52 Access Control Records of International Visits, Assignments, and Employment at Facilities and Contractor Sites.
DOE–53 Access Authorization for Information Technology Group (ITG) Equipment
DOE–54 Investigative Files of the Inspector General
DOE–55 Freedom of Information and Privacy Act (FOIA/PA) Requests for Records
DOE–56 Congressional Constituent Inquiries
DOE–57 Congressional Profiles
DOE–58 General Correspondence Files of the Secretary of Energy
DOE–59 Mailing List for Requesters of Energy Related Information
DOE–60 Deleted—Reserved
DOE–61 Census of High Energy Physicists
DOE–62 Historical Files—Published Information Concerning Selected Persons in the Energy Field
DOE–63 Deleted—Reserved
DOE–64 Deleted—Reserved
DOE–65 Deleted—Reserved
DOE–66 Power Sales to Individuals
DOE–67 Deleted—Reserved
DOE–68 Deleted—Reserved
DOE–69 Deleted—Reserved
DOE–70 Deleted—Reserved
DOE–71 The Radiation Accident Registry
DOE–72 The DOE Radiation Study Registry
DOE–73 The US–DPTA Registry
DOE–74 Deleted—Reserved
DOE–75 Call Detail Records
DOE–76 Deleted with this notice—Reserved
DOE–77 Physical Fitness Test Records
DOE–78 Deleted with this notice—Reserved
DOE–79 Deleted—Reserved
DOE–80 Deleted—Reserved
DOE–81 Counterintelligence Administrative and Analytical Records and Reports
DOE–82 Grant and Contract Records for Research Projects, Science Education, and Related Activities
DOE–83 Allegations Based Inspections Files of the Office of the Inspector General
DOE–84 Counterintelligence Investigative Records
DOE–85 Reserved
DOE–86 Human Radiation Experiments Records
DOE–87 Deleted with this notice—Reserved
DOE–88 Epidemiologic and Other Health Studies, Surveys, and Surveillances

Text of Notices

DOE–1

SYSTEM NAME:

Grievance Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION(S):

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87115

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Brookhaven National Laboratory, Industrial Medicine Division, Upton, NY 11973

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Grand Forks Energy Technology Center, P.O. Box 8213, University Station, Grand Forks, ND 58201

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Laramie Energy Technology Center, P.O. Box 3395, University Station, Laramie, WY 82070

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45342

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 90403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Department of Energy (DOE) employees, consultants, board members, and applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grievances; names; social security numbers; work and home address; work and home telephone numbers; job titles, series, and grade levels; organization; supervisors' names and telephone numbers; copies of employee records, such as personnel actions, performance appraisals, pay and leave records, and security clearance documents; management reports; witness statements; affidavits; checklists; notes; and relevant correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 5 U.S.C. 7121, and 5 CFR part 771.

PURPOSE(S):

The records are maintained and used by the Department to resolve employee concerns about working conditions, the administration of collective bargaining agreements, employee-supervisor relations, and work processes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to union officials acting in their official capacity as a representative of the grievant or affected employees under 5 U.S.C. Chapter 71.

2. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving a constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

3. A record from this system may be disclosed as a routine use to an appropriate Federal, State, or local agency that is authorized to review and resolve the issue(s) raised in the grievance.

4. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to (1) a person representing the Department or assisting in such representation; (2) others involved in the matter, their representatives and persons assisting such persons; and (3) witnesses, potential witnesses, their representatives and assistants, and any other persons possessing information pertaining to the matter when it is necessary to obtain information or testimony relevant to the matter.

5. A record from this system may be disclosed as a routine use to a contractor of the Department who is authorized to review and resolve the issue(s) raised in the grievance, including a mediator or arbitrator in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by the name of the grievant or complainant or other personal identifier, such as social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director of Human Resources Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Human Resources Directors of the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of

records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records generally are kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORDS PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The grievant or complainant, applicable management officials, program office records, congressional offices, and fact finders' notes and reports.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–2

SYSTEM NAME:

DOE–Personnel Supervisor Maintained Personnel Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87115

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Brookhaven National Laboratory, Industrial Medicine Division, Upton, NY 11973

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Grand Forks Energy Technology Center, P.O. Box 8213, University Station, Grand Forks, ND 58201

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Laramie Energy Technology Center, P.O. Box 3395, University Station, Laramie, WY 82070

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45342

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 90403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current Department of Energy (DOE) employees, former employees who have departed within the last year, assigned military or detailed personnel, and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies and summaries of employment history; SF–171; job description; education; address; next of kin; home and work telephone numbers; date of birth; awards and commendations received; participation in professional or community activities; training; earnings and leave data; travel actions; certification or qualification examinations; injury reports; appraisals; copy of ADP-produced Form 702; Form 50; assignment records; security infraction notices; records of supervisor-employee discussions; supervisor observations; reprimands; admonitions; adverse actions; commendations; contingency planning data; security clearance status; and Government property in employee possession.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by DOE to maintain a file of personnel information that would allow DOE managers to make informed personnel and management decisions concerning employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

2. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

3. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters and Field Offices: The immediate supervisor of the subject of the record(s).

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject employee, employee's supervisor(s), personnel action documents, payroll documents, and personnel security documents.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–3

SYSTEM NAME:

Employee Concerns Program Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585.

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87185–5400.

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Nevada Operations Office, 232 Energy Way, North Las Vegas, NV 89030

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 200 Administration Road, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Office of River Protection, P.O. Box 550, MS A1–61, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93 Unite A, Golden, CO 80402

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Savannah River Operations Office, Road 1A, Aiken, SC 29802

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Department of Energy (DOE) employees and DOE contractor and subcontractor employees who file concerns or complaints with the DOE Employee Concerns Program offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee concerns, informal whistleblower reprisal complaints, names, social security numbers, work and home addresses and telephone numbers, job titles, series, grade or pay levels; organization; supervisors names and telephone numbers; copies of employee records such as personnel actions, performance appraisals, pay and leave records and security clearance documents; management reports; witness statements; affidavits; checklists; notes; and relevant correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 42 U.S.C. 2201 (p); 42 U.S.C. 7254; 42 U.S.C. 5801(a).

RETRIEVABILITY:

Records may be retrieved by name and social security number.

PURPOSE:

The records are maintained and used by the Department to document and resolve employee concerns about environmental, safety and health issues, employee-supervisor relations, work processes and practices, and other work-related issues.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to union officials acting in their official capacity as a representative of the grievant or affected employees under 5 U.S.C. Chapter 71.

2. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving a constituent when the constituent has requested assistance from the member of Congress with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

3. A record from this system may be disclosed as a routine use to the appropriate local, State or Federal agency in the event that a record within this system of records, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal

or regulatory in nature, and whether arising by general statue of particular program pursuant thereto.

4. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to (1) a person representing the Department or assisting in such representation; (2) others involved in the matter, their representatives and persons assisting such persons; and (3) witnesses, potential witnesses, their representatives and assistants, and any other persons possessing information pertaining to the matter when it is necessary to obtain information or testimony relevant to the matter.

5. A record from this system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by the name of the concerned employee or complainant or other personal identifier, such as social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE records schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of Employee Concerns, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Director of the Office of Employee Concerns at the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information and Privacy Act Division, U. S. Department of Energy or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records generally are kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORDS PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The concerned employee or complainant; applicable management officials; program office records; and congressional offices.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The system is exempt under subsections 552a(k)(1), (2) and (5) of the Privacy Act to the extent that information within the system meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3); 5 U.S.C. 552a (d); 5 U.S.C. 552a (e)(1) of the Act; see the Department's Privacy Act regulation at 10 CFR part 1008.

DOE–4

SYSTEM NAME:

FORM EIA–457 Survey Reports (Residential Energy Consumption Survey (RECS)).

SYSTEM LOCATION:

U.S. Department of Energy, Energy Information Administration (EIA), 1000 Independence Avenue, SW., Washington, DC 20585.

Roper Starch Worldwide, Inc., Response Analysis Division, 1060 State Road, Princeton, NJ 08540.

SECURITY CLASSIFICATION:

Unclassified.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons responding to the FORM EIA–457 (Residential Energy Consumption Survey (RECS)) or a sample thereof.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, age, gender, race, ethnicity, home address, home telephone number, income, family size and composition, characteristics of housing unit, household vehicles, name and address of landlord, name and address of fuel suppliers, and records of energy purchases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE:

The information is collected and maintained by the DOE to measure the levels of energy consumption used by homeowners and the cost of heating fuel. The information also is used for monitoring, modeling and making policy decisions regarding energy use in U.S. households.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and identification number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are

password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Administrator, Energy Information Administration, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORDS ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual and energy supply companies.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–5

SYSTEM NAME:

Personnel Records of Former Contractor Employees.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87115

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Naval Petroleum Reserves in California, P.O. Box 11, Tupman, CA 93276

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 North Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, PO BOX 3020, Miamisburg, OH 45343–3020

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550 Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former employees of companies that currently have or have had a contract with the Department of Energy (DOE).

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, employment history, earnings, medical history, and other related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*, 50 U.S.C. 2401 *et seq.* and the Memorandum of Understanding between the Department of Energy and the Department of Health and Human Services, 56 FR 9701, March 7, 1991.

PURPOSE(S):

The records are maintained and used by the DOE to verify employment of contractor employees who have worked at a DOE facility or for a prime management and operating contractor for the DOE to settle or pay claims associated their employment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to the appropriate local, State or Federal agency when records alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature, and whether arising by general statue of particular program pursuant thereto.

2. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; and (3) witness, potential witness, or their representatives and assistants, and any person possesses information pertaining to the matter when it is necessary to obtain information or testimony relevant to the matter.

4. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractor of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

5. A record from this system may be disclosed as a routine use to foreign governments in accordance with treaties, international conventions, or executive agreements.

6. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

7. A record from the system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

8. A record from the system of records may be disclosed to contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health and the National Center for Environmental Health of the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry pursuant to Memoranda of Understanding between the Department and the Department of Health and Human Services or its components.

9. A record from the system may be disclosed to contractors, grantees, participants in cooperative agreements, collaborating researchers, or their employees, in performance of health studies or related health or environmental duties pursuant to their contracts, grants, and cooperating or collaborating research agreements. In order to perform such studies, the Department, its contractors, grantees, participants in cooperative agreements, and collaborating researchers may disclose a record to: Federal, state and local health and medical agencies or authorities; to subcontractors in order to determine a subject's vital status or cause of death; to health care providers to verify a diagnosis or cause of death; or to third parties to obtain current addresses for participants in health-related studies, surveys, and surveillance. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the above described research purposes.

10. A record from this system may be disclosed to members of DOE advisory committees, the Department of Health and Human Services Advisory Committee on Projects Related to Department of Energy Facilities, and to designated employees of Federal, State, or local government or government-sponsored entities authorized to provide advice to the DOE concerning health, safety, or environmental issues. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the purpose of providing advice to the DOE or to the Department of Health and Human Services.

11. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored as paper records.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of Contractor Human Resource Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers of the ''System locations'' listed above are the system managers for their respective portions of the system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U. S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The employer of the subject individual.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–6

SYSTEM NAME:

EIA Customer Data Base.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy (DOE), Energy Information Administration (EIA), 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons requesting energy related information.

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

The following information may be maintained in the system: EIA contact name, date of contact, contact method, address, e-mail address, telephone number, fax number, description of information or services requested, description of services, and energy interests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE:

The records are used and maintained by the DOE to analyze, evaluate and better serve EIA customers, their needs, and their interests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, e-mail address, or telephone number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Energy Information Administration, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, Part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORDS ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–7

SYSTEM NAME:

Whistleblower Investigation, Hearings, and Appeals Records.

SECURITY CLASSIFICATION:

Classified and unclassified.

SYSTEM LOCATION:

These records are maintained at the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0107.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Department of Energy (DOE), contractor and subcontractor employees whose complaints are received at the Office of Hearings and Appeals pursuant to Title 10, Code of Federal Regulations, part 708, and pursuant to section 3164 of the National Defense Authorization Act for FY 2000, Pub. L. 106–65, codified at 42 U.S.C. 7239.

CATEGORIES OF RECORDS IN THE SYSTEM:

Whistleblower reprisal complaints; names, social security numbers, work and home addresses and telephone numbers, job titles, series, grade or pay levels; organization information; supervisors' names and telephone numbers; copies of employee records such as personnel actions, performance appraisals, pay and leave records, and security clearance documents; management reports; witness statements; affidavits; checklists; notes; reports of investigation; and relevant correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 42 U.S.C. 2201(b), (c), (I), (p), 5814, 5815, 7251, 7254, 7255, 7257; 42 U.S.C. 7239.

PURPOSE(S):

The records are maintained and used by the DOE to document and resolve complaints made by employees of DOE and its contractors and subcontractors who allege retaliation by their employer for disclosure of information concerning danger to public or worker health or safety, substantial violations of law, or gross mismanagement; for participation in Congressional proceedings; or for refusal to participate in dangerous activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed to any source from which additional information is requested when necessary to obtain information relevant to the processing of a whistleblower complaint by the Office of Hearings and Appeals. The source will be provided such information from the system of records only to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

2. A record from this system may be disclosed as a routine use to the appropriate local, State or Federal agency in the event that a record within this system of records, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature, and whether arising by general statute of particular program pursuant thereto.

3. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to (1) persons representing the Department or assisting

in such representation; (2) others involved in the matter, their representatives and assistants, and any other person possessing information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

4. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publicly available pleadings, filings, or discussion in open court) when such disclosure (1) is relevant to, and necessary for, the proceeding, and (2) is compatible with the purpose for which the Department collected the record; and (3) the proceeding involves:

(a) The Department, its predecessor agencies, current or former contractor of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity, or in any individual capacity where the Department or other United States Government agency has agreed to present the employee.

5. A record from this system may be disclosed as a routine use to contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

6. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving a constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. Decisions, opinions, reports of investigation, orders and other determinations signed by investigators, hearing officers or the Director of the Office of Hearings and Appeals that are records contained in this system of records may be published for the general public, for precedential or educational purposes, in paper format and electronically on the Office of Hearings and Appeals' website, the current address of which is http://www.oha.doe.gov.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by complainant's name or other personal identifier or case number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only to the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE records schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Docket and Publications Branch, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0107.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information and Privacy Act Division, U. S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''system locations.'' The request should include the requester's complete name, time period, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above.

RECORD SOURCE CATEGORIES:

The complainant; individuals and organizations that have pertinent knowledge about the subject of the complaint; those authorized by the complainant to furnish information; confidential informants; and Congressional offices.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The system is exempt under subsections 552a(k)(1), (2) and (5) of the Privacy Act to the extent that information within the system meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3); 5 U.S.C. 552a (d); 5 U.S.C. 552a (e)(1) of the Act; see the DOE Privacy Act regulation at Title10, Code Federal Regulations, Part 1008.

DOE–8

SYSTEM NAME:

Intergovernmental Personnel Act (IPA) Agreements.

SYSTEM CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Headquarters, Germantown, 19901 Germantown Road, Germantown, MD 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U. S. Department of Energy, National Petroleum Technology Office, William

Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Office of Naval Reactors, Crystal City, VA 22202

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343–3020

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Bldg., Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are now, or have been, under an IPA agreement to or from the Department of Energy (DOE).

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, home and work addresses, social security number, home and work telephone numbers, salary, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 5 U.S.C. Chapter 33, Subchapter VI, and 5 CFR part 334.

PURPOSE:

The records are maintained and used by DOE to provide a basis for payments under the terms of the IPA agreements, provide employment histories, and provide information for reports and program evaluations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed to State and local governments, institutions of higher education, Federally Funded Research and Development Centers, or other ''eligible'' organizations for the purpose of assigning prospective individuals for temporary periods.

2. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as electronic media and paper records.

RETRIEVABILITY:

Records may be retrieved by name or social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Deputy Assistant Secretary for Human Resources, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington DC 20585.

Field Offices: The Personnel Officers at the field locations listed above under ''Systems Locations'' are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual and current or prospective employer.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–9

SYSTEM NAME:

Members of DOE Advisory Committees.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Office of the Executive Secretariat, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who are members of a Department of Energy (DOE) Advisory Committee.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, biographical information, home address and telephone number, work address and telephone number, type of business or organizational affiliation, present position with business or other organization, number of years in present position, other related experience, congressional district, and photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; and the Federal Advisory Committee Act, 5 U.S.C. App. 2.

PURPOSE:

The records are maintained and used by the DOE to keep a current listing of advisory committee members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

2. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of the Executive Secretariat, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, members of Congress, and public interest groups.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–10

SYSTEM NAME:

Worker Advocacy Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290

U.S. Department of Energy, Albany Research Center, 1450 Queen Avenue, SW., Albany, OR 97321

U.S. Department of Energy, Albuquerque Operations Office, Pennsylvania & H Street, Kirtland Air Force Base, Albuquerque, NM 87116

U.S. Department of Energy, Amarillo Area Office, Highway 60 FM2373, Amarillo, TX 79177

U.S. Department of Energy, Ames Laboratory, #311 TASF, Iowa State University, Ames, IA 50011

U.S. Department of Energy, Argonne Group, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Argonne National Laboratory-East, 9700 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Argonne National Laboratory-West, INEEL, EBRII Site, Scoville, ID 83415

U.S. Department of Energy, Atlanta Regional Office, 75 Spring Street, Suite 200, Atlanta, GA 30308

U.S. Department of Energy, Bettis Atomic Power Laboratory, Bechtel Bettis, Inc., 814 Pittsburgh McKeesport Blvd., West Mifflin, PA 15122–0079

U.S. Department of Energy, Bonneville Power Administration, 905 NE 11th Avenue, Portland, OR 97232

U.S. Department of Energy, Bonneville Power Administration, 1520 Kelley Place, Walla Walla, WA 99362

U.S. Department of Energy, Bonneville Power Administration, Seattle Customer Service Center, 1601 Fifth Avenue, #1000, Seattle, WA 98101–1625

U.S. Department of Energy, Bonneville Power Administration, Spokane Sales Office, 707 West Main Street, Suite 500, Spokane, WA 99201

U.S. Department of Energy, Boston Regional Office, John F. Kennedy Federal Bldg., Room 675, Boston MA 02203–0002

U.S. Department of Energy, Brookhaven Group, 53 Bell Avenue, Bldg. 464, Upton, NY 11973

U.S. Department of Energy, Brookhaven National Laboratory, P.O. Box 5000, Upton, NY 11973–5000

U.S. Department of Energy, Carlsbad Area Office, 4021 National Parks Highway, Carlsbad, NM 88220

U.S. Department of Energy, Chicago Regional Office, One South Wacker Drive, Chicago, IL 60606–4616

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Denver Regional Office, 1617 Cole Blvd., MS–1721, Golden, CO 80401

U.S. Department of Energy, Environmental Measurements Laboratory, 201 Varick Street, 5th Floor, New York, NY 10014–4811

U.S. Department of Energy, Fermi Group, Kirk Road & Pine Street, Batavia, IL 60510

Fermi National Accelerator Laboratory, Kirk Road & Pine Street, Batavia, IL 60510

U.S. Department of Energy, Fernald Environmental Management Project, 7400 Willey Road, Cincinnati, OH 45030

U.S. Department of Energy, General Atomics Site Office, 3550 General Atomic Court, B–7, Room 119, San Diego, CA 92121.

U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, CO 80401

U.S. Department of Energy, Grand Junction Office, 2597 3/4 Road, Grand Junction, CO 81503

U.S. Department of Energy, Hanford Environmental Health Foundation, 3080

George Washington Way, Richland, WA 99352

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83403

U.S. Department of Energy, Idaho National Engineering and Environmental Laboratory, 2525 North Fremont Avenue, Idaho Falls, ID 83401–1563

U.S. Department of Energy, Idaho National Engineering and Environmental Laboratory, CF 690 MS 4149, Scoville, ID 83415

U.S. Department of Energy, Kansas City Area Office, 2000 E 95th Street, Kansas City, MO 64131–3095

U.S. Department of Energy, Kirtland Area Office, Pennsylvania & H Street, Albuquerque, NM 87185–5400

U.S. Department of Energy, Knolls Atomic Power Laboratory, 2401 River Road, Niskayuna, NY 12309

U.S. Department of Energy, Lawrence Berkeley National Laboratory, 1 Cyclotron Road, Berkeley, CA 94720

U.S. Department of Energy, University of California, Lawrence Livermore National Laboratory, 7000 East Avenue, P.O. Box 808, L–1, Livermore, CA 94550

U.S. Department of Energy, Lawrence Livermore National Laboratory, Nevada Test Site, University of California, P.O. Box 45, Mercury, NV 89023

U.S. Department of Energy, Lockheed Idaho Technical Center, 765 Lindsay Blvd., Idaho Falls, ID 83403

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

University of California, Los Alamos National Laboratory, SM #30 Bikini Road, Los Alamos, NM 87545

U.S. Department of Energy, Miamisburg Environmental Management Project, 1 Mound Road, Miamisburg, OH 45342–0066

U.S. Department of Energy, National Energy Technology Laboratory (NETL–MGN), 3610 Collins Ferry Road, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (NETL–PGH), 626 Cochrans Mill Road, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, One West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, National Renewable Energy Laboratory Area Office, 1617 Cole Blvd., Golden, CO 80401–3393

U.S. Department of Energy, National Renewable Energy Laboratory, 1617 Cole Blvd., Golden, CO 80401–3393

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 N. Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Naval Petroleum Reserves in California, 1601 New Stine Road, Suite 240, Bakersfield, CA 93309

U.S. Department of Energy, Nevada Operations Office, 232 Energy Way, North Las Vegas, NV 89030–4199

U.S. Department of Energy, Nevada Test Site Mercury, Nevada, Building 111, P.O. Box 677, Mercury, NV 89023–0677

U.S. Department of Energy, New Brunswick Laboratory, 9800 South Cass Avenue, Bldg. 350, Argonne, IL 60439

U.S. Department of Energy, Oak Ridge Institute for Science and Education, 230 Warehouse Road, Bldg. 1916T2, Oak Ridge, TN 37830

U.S. Department of Energy, Oak Ridge National Laboratory, Bethel Valley Road, Oak Ridge, TN 37831

U.S. Department of Energy, Oak Ridge Operations Office, 200 Administration Road, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Office of Scientific and Technical Information, 175 Oak Ridge Turnpike, Oak Ridge, TN 37830

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Pacific Northwest National Laboratory, 902 Battelle Blvd., P.O. Box 999, Richland, WA 99352

U.S. Department of Energy, Paducah Site Office, 5600 Hobbs Road, West Paducah, KY 42086

U.S. Department of Energy, Philadelphia Regional Office, 1880 John F. Kennedy Blvd., Suite 501, Philadelphia, PA 19103–7483

U.S. Department of Energy, Portsmouth Enrichment Office, 3930 U.S. 23, Perimeter Road, Piketon, OH 45661

U.S. Department of Energy, Princeton Group Office, US Rt. 1, Forrestal Campus C Site, Room B290 LSB, Princeton, NJ 08542

U.S. Department of Energy, Princeton Plasma Physics Laboratory, James Forrestal Campus, Princeton, NJ 08542

U.S. Department of Energy, Radiobiology & Environmental Health Laboratory, University of California, San Francisco, Box 0750, 3rd Avenue & Parnassos Avenue, San Francisco, CA 94143–0750

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 90403–8200

U.S. Department of Energy, Sandia National Laboratories, 1515 Eubank Blvd., SE, Albuquerque, NM 87123

U.S. Department of Energy, Sandia National Laboratories, 7011 E Avenue, Livermore, CA 94551–0969

U.S. Department of Energy, Savannah River Ecology Laboratory, Drawer E, Aiken, SC 29802

U.S. Department of Energy, Savannah River Operations Office, Road 1A, Aiken, SC 29801

U.S. Department of Energy, Seattle Regional Office, 800 Fifth Avenue, Suite 3950, Seattle, WA 98104

U.S. Department of Energy, Southeastern Power Administration, 2 South Public Square, Samuel Elbert Bldg., Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 728, Gore, OK 74435

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1223, Jonesboro, AR 72403

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 3337, Springfield, MO 65808

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Stanford Linear Accelerator Center, 2575 Sand Hill Road, Menlo Park, CA 94025

U.S. Department of Energy, Stanford Site Office, 2575 Sand Hill Road, B–41, MS: 8–A, Menlo Park, CA 94025

U.S. Department of Energy, Stanford Synchrotron Radiology Laboratory, Stanford University, P.O. Box 4349, MS 69, Stanford, CA 94025

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Laboratory of Structural Biology and Molecular Medicine, University of California, 900 Veteran Avenue, Los Angeles, CA 90024–1786

U.S. Department of Energy, Thomas Jefferson National Accelerator Facility, 12000 Jefferson Avenue, Newport News, VA 23606

U.S. Department of Energy, Waste Isolation Pilot Project Office, P.O. Box 3090, Carlsbad, NM 88221

U.S. Department of Energy, West Valley Demonstration Project, 10282 Rock Springs Road, West Valley, NY 14171–9799

U.S. Department of Energy, Western Area Power Administration, 12155 W. Alameda Parkway, Lakewood, CO 80228–1213

U.S. Department of Energy, Western Area Power Administration, 1800 South Rio Grande, Montrose, CO 81401

U.S. Department of Energy, Western Area Power Administration, Colorado

River Storage Region, 257 E 200 S, Suite 475, Salt Lake City, UT 84111–2048

U.S. Department of Energy, Western Area Power Administration, Desert Southwest Region, 615 S. 43rd Avenue, Phoenix, AZ 85009

U.S. Department of Energy, Western Area Power Administration, Rocky Mountain Region, 5555 E. Crossroads Blvd., Loveland, CO 80538–8986

U.S. Department of Energy, Western Area Power Administration, Sierra Nevada Region, 114 Parkshore Drive, Folsom, CA 95630–4710

U.S. Department of Energy, Western Area Power Administration, Upper Great Plains Region, 2900 4th Avenue North, Billings, MT 59101–1266

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records contains materials submitted to DOE for the purpose of seeking assistance in obtaining compensation for an illness believed to have been contracted due to employment by or for DOE. These records may pertain to individuals in the following categories who contacted DOE through the Workers' Compensation Helpline, through a member of Congress, or through correspondence in any format. These individuals may be: (1) Members of the public; (2) employees or surrogates of employees of DOE, its predecessor agencies, and their contractors and subcontractors; (3) former members of the armed forces.

CATEGORIES OF RECORDS IN THE SYSTEM:

Telephone conversations; correspondence to DOE from individuals, members of Congress, attorneys who represent workers, other surrogates of workers, doctors, and other Federal agencies; medical records; employment records; exposure records; safety records or other incident reports, including but not limited to area sampling data, accidental releases, explosions, spills, etc.; workers' or family members' contemporaneous diaries, journals, or other notes; internal DOE forms for reviewing worker cases; physical and vocational rehabilitation records; records pertaining to previously filed claims; and any other records related to or pertinent to the condition or case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; The Energy Employees Occupational Illness Compensation Program Act of 2000, Pub. L.106–398.

PURPOSE(S):

The purpose of this system of records is to collect and maintain records needed by the Office of Worker Advocacy to assist current and former DOE contractor employees or their families in connection with the filing of state workers' compensation claims for conditions that may be due to exposures during employment by or for DOE. The assistance provided by this Office may include, but is not limited to the following: (1) Maintaining a helpline, (2) conducting outreach and educational programs, (3) providing referral assistance, and (4) case review. Although the primary focus is on DOE contractor employees, assistance may be provided to DOE federal employees and employees of other agencies by directing them to the appropriate compensation programs, such as the Federal Employees Compensation Act program administered by the Department of Labor.

Individually identifiable information will not appear in published or unpublished reports, studies or surveys. However, the system will contain records compiled in completing published or unpublished reports, studies or surveys from which information may be retrieved by name or other personal identifier. Non-identifiable information regarding the assumptions, methodology, and data used in establishing radiation doses under section 3623(d) of the Energy Employees Occupational Illness Compensation Program Act of 2000 will be made available to researchers and the general public, consistent with the protection of private medical records.

ROUTINE USES OF THE RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

2. A record from this system may be disclosed as a routine use to DOE financial assistance recipients in performance of their financial assistance agreements, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

3. A record from this system may be disclosed as a routine use to other state and Federal agencies or entities whose mission entails reviewing or managing workers' compensation claims or administering other benefits programs. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. A record from this system may be disclosed as a routine use to members of a physicians panel(s) established to review and provide a determination regarding whether the illness or death that is the subject of an application for compensation arose out of and in the course of employment by or for DOE. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

5. A record from this system may be disclosed as a routine use to medical specialists in fields that include occupational medicine, pulmonology, immunology, toxicology, dermatology, hematology/oncology, rheumatology, neurology, neurotoxicology, psychiatry, psychology, endocrinology, pathology, and any other specialty that the physicians panel member(s) deem necessary to reach a conclusion in a case. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

6. A record from this system may be disclosed as a routine use to the personnel, contractors, grantees, and cooperative agreement holders of the Federal agency or agencies and its components, designated by the President to implement the Federal compensation program established by the Energy Employees Occupational Illness Compensation Program Act. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

7. A record from this system may be disclosed as a routine use to the members and the staff of the DOE advisory committee established to provide advice on workers' compensation issues, and the members and the staff of an advisory board on Radiation and Worker Health required to be established under the Energy Employees Occupational Illness Compensation Program Act. All recipients of such records are required

to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the purpose of providing advice relating to workers' compensation.

8. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

9. A record from this system may be disclosed as a routine use to the Department of Justice when DOE determines that an individual may be eligible for compensation under the Radiation Exposure and Compensation Act of 1990 (42 U.S.C. 2210, note, and as further clarified in 28 CFR part 79), a compensation program administered by the Department of Justice.

10. A record from this system may be disclosed as a routine use to the appropriate local, state or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

11. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by the name of the individual, case number and document number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Director, Office of Worker Advocacy, 1000 Independence Ave, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as notification procedures.

RECORD SOURCE CATEGORIES:

Records in this systems will be obtained from sources, including, but not limited to the individual who is the subject of the records; physicians and other medical professionals; medical institutions; state and Federal workers' compensation offices; family members of the subject; attorneys representing the individual; individuals' employer, including DOE and its contractors and subcontractors; medical laboratories; other state and Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

DOE–11

SYSTEM NAME:

Emergency Operations Notification Call List.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Office of Naval Reactors, Crystal City, VA 22202

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343–3020

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Bldg., Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE) senior officials, office directors and key support staff, and DOE contractors involved in DOE Headquarters emergency management and operations activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, office telephone number, home telephone number, home address and pager and cellular phone numbers (if appropriate).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the DOE to create a list that will enable 24 hour contact with select DOE Headquarters personnel and contractors to inform them of situations, occurrences, and emergencies that may impact DOE facilities or activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name of subject individual.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters, Director, Office of Nonproliferation and National Security, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–12

SYSTEM NAME:

Automated Materials and Property Systems (AMPS).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U. S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Germantown, 19901 Germantown Road, Germantown, MD 20784–1290

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current Department of Energy (DOE) Headquarters employees who purchase supply products at the three Self Service Stores in the Washington, DC area and vicinity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of DOE employee, organization, date of purchase, quantity, and price.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 42 U.S.C. 7263, and 42 U.S.C. 5815G.

PURPOSE(S):

The records are maintained and used by the Department for billing purposes under the Working Capitol Fund (WFC). The WCF issues bills to Headquarters program offices for both stock and non stock supplies that were purchased for use by employees to perform their work.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system of records may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

2. A record in this system of records may be disclosed as a routine use to a

member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and badge number of the DOE employee.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Assets Management and Support Services Group 1000 Independence Avenue, SW., Washington, DC 20585

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, Part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic locations(s) where the requester believes the records are located.

RECORDS ACCESS PROCEDURES:

Same as Notifications procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Sources of information for the system include: supplies and their respective price lists that are purchased and placed into the supply system for sale; purchases made by DOE employees; and the information contained on the employee's badge.

SYSTEM EXEMPT FROM CERTAIN PROVISION OF THE ACT:

None.

DOE–13

SYSTEM NAME:

Payroll and Leave Records.

SYSTEM CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Atlanta Regional Support Office, 730 Peachtree, NE., Suite 876, Atlanta, GA 30308

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Boston Regional Support Office, One Congress Street, Room 1101, Boston, MA 021144–2021

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), 626 Cochrans Mill Road, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 N. Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Naval Petroleum Reserves in California, 1601 New Stine Road, Suite 240, Bakersfield, CA 93309

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Office of Scientific & Technical Information, P.O. Box 62, Oak Ridge, TN 37831

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343

U.S. Department of Energy, Philadelphia Regional Support Office, 1880 John F. Kennedy Boulevard, Suite 501, Philadelphia, PA 19103–7483

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, PO A, Aiken, SC 29801

U.S. Department of Energy, Seattle Regional Support Office, 800 Fifth Avenue, Suite 3950, Seattle, WA 98104

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE) personnel and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Time and attendance records, earning records, payroll actions, deduction information requests, authorizations for overtime and night differential, and Office of Personnel Management (OPM) retirement records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.;* Privacy Act of 1974, Pub. L. 93–

579 (5 U.S.C. 552a); General Accounting Office Policy and Procedures Manual; Personal Responsibility and Work Opportunity Reconciliation Act, Pub. L. 104–193.

PURPOSE(S):

The records are maintained and used by the DOE to document historical information on employee wages, deductions, retirement benefits, and leave.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the Department of Treasury to collect withheld taxes, process payroll payments, and issue savings bonds.
2. A record from this system may be disclosed as a routine use to the Internal Revenue Service to process Federal income tax payments and tax levies.
3. A record from this system may be disclosed as a routine use to state and local governments to process State and local income tax deductions and court ordered child support or alimony payments.
4. A record from this system may be disclosed as a routine use to OPM to establish and maintain retirement records and benefits.
5. A record from this system may be disclosed as a routine use to the Thrift Savings Board to update Section 401K type records and benefits.
6. A record from this system may be disclosed as a routine use to the Social Security Administration to establish Social Security records and benefits.
7. A record from this system may be disclosed as a routine use to the Department of Labor to process workmen's compensation claims.
8. A record from this system may be disclosed as a routine use to the Department of Defense to adjust military retirement.
9. A record from this system may be disclosed as a routine use to financial institutions to credit net check deposits, savings allotments, and discretionary allotments.
10. A record from this system may be disclosed as a routine use to the employee unions to credit accounts for employees with union dues deductions.
11. A record from this system may be disclosed as a routine use to health insurance carriers to process insurance claims.
12. A record from this system may be disclosed as a routine use to the General Accounting Office to verify accuracy and legality of disbursement.
13. A record from this system may be disclosed as a routine use to the Department of Veterans Affairs to evaluate veteran's benefits to which the individual may be entitled.
14. A record from this system may be disclosed as a routine use to States' departments of employment security to determine entitlement to unemployment compensation or other State benefits.
15. A record from the system may be disclosed as a routine use to the appropriate local, State or Federal agency in the event that a record within this system of records, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.
16. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.
17. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.
18. A record from this system of records may be disclosed as a routine use to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.
19. A record from this system may be disclosed as a routine use to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, Federal Parent Locator System (FPLS) and Federal Tax Offset System to locate individuals and identify their income sources to establish paternity, establish and modify orders of support, and for enforcement action.
20. A record from this system may be disclosed as a routine use to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, FPLS and Federal Tax Offset System, for release to the Social Security Administration to verify social security numbers in connection with the operation of the FPLS by the Office of Child Support Enforcement.
21. A record from this system may be disclosed as a routine use to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, FPLS and Federal Tax Offset System, for release to the Department of Treasury to administer the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986) and verify a claim with respect to employment in a tax return.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, social security number, and payroll number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, U.S. Department of Energy, Office of Chief Financial Officer, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers of the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S.

Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, supervisors, timekeepers, official personnel records, and the Internal Revenue Service.

SYSTEM EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–14

SYSTEM NAME:

Report of Compensation.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87115

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Naval Petroleum Reserves in California, Post Office Box 11, Tupman, CA 93276

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 North Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, 700 N, Oakland, CA 94612–5208

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Strategic Petroleum Reserve Office, 9000 Commerce Road East, New Orleans, LA 70123

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department of Energy (DOE) and contractors performing and operating onsite service work in the DOE-owned or controlled facilities, including long-term architect-engineering and cost-reimbursement construction contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, job title, contractor, current salary up to $100,000, amount reimbursed, and other compensation (actual and amount reimbursed).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the DOE to aid Managers of Field Offices, Program Secretarial Officers and Headquarters Program Managers in determining the reasonableness of compensation paid to top level contractor employees and to monitor the growth of contractor compensation at all levels.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as magnetic tape and paper records.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and

physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of Contractor and Resource Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers of the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Contractor salary administrative personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–15

SYSTEM NAME:

Intelligence Related Access Authorization.

SECURITY CLASSIFICATION:

Classified and unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Office of Intelligence, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Lawrence Livermore National Laboratory, 7000 East Avenue, B–261, Livermore, CA 94551

U.S. Department of Energy, Idaho National Engineering & Environmental Laboratory Systems Analysis Facility, 2271 N. Boulevard, Idaho Falls, ID 83403

U.S. Department of Energy, Nevada Operations Office, 232 Energy Way, Las Vegas, NV 89193

U.S. Department of Energy, Pacific Northwest National Laboratory, Energy & Environmental Sciences Building (EESB), 3230 Q Avenue, Richland, WA 99352

U.S. Department of Energy, Sandia National Laboratories, Center for National Security & Arms Control, Building 810W, Albuquerque, NM 87185

U.S. Department of Energy, Remote Sensing Laboratory, EG&G/EM, 4600 N. Hollywood Blvd. Nellis AFB, Bldg 2211, Las Vegas, NV 89191–6403

U.S. Department of Energy, Los Alamos National Laboratory, Nonproliferation & National Security, TA–3, Building SM–43, Los Alamos, NM 87544

U.S. Department of Energy, Savannah River Operations Office, Savannah River Technology Center, Technical Area 700, Bdlg 735–A, New Ellington, SC 29809

U.S. Department of Energy, Special Technologies Laboratory, 5520 Ekwill Street, Santa Barbara, CA 93111

U.S. Department of Energy, Lockheed Martin Energy Systems, P.O. Box 2003, Blair Road Oak Ridge, TN 37831–7312

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former DOE employees and contractor employees; applicants for employment at DOE; individuals who may be assigned or detailed to Federal positions at DOE; consultants to DOE.

CATEGORIES OF RECORDS IN THE SYSTEM:

The following information may be maintained in the system: Results of background investigations, law enforcement records, reports and files; reports on foreign contacts/travel; records, reports and files received from other DOE elements and other Federal agencies related to intelligence activities; polygraph examination records, reports and videotapes of the polygraph session; eligibility evaluation reports; and electronic mail stored on CD.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C., 2401 *et seq.*; The Atomic Energy Act of 1954, as amended; 42 U.S.C. 7239; Executive Order 12333, United States Intelligence Activities (December 4, 1981); Department of Energy Procedures for Intelligence Activities, approved by the Attorney General under Executive Order 12333 (October 19, 1992); Executive Order 12958, Classified National Security Information (April 17, 1995); Executive Order 12968, Access to Classified Information (August 2, 1995); Presidential Decision Directive–61, U.S. Department of Energy Counterintelligence Program, and DOE Order 5670.1A, Management and Control of Foreign Intelligence.

PURPOSE(S):

The records are maintained and used by the DOE to conduct eligibility determinations, adjudications, revocations and appeals from denials and revocations. Under DOE Order 5670.1A the Director of Intelligence is directed to control access to and use of Sensitive Compartmented Information (SCI) and other classified Intelligence information bearing the Director, Central Intelligence (DCI) authorized control markings; and approve access to SCI in compliance with DCI directives.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the appropriate Federal, State, or local agency when records alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature, and whether arising by general statute of particular program pursuant thereto.

2. A record from the system may be disclosed as a routine use to a Federal, state or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and

conduct of litigation to (1) a person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; and (3) a witness, potential witness, or their representatives and assistants, and any person possessing information pertaining to the matter when it is necessary to obtain information or testimony relevant to the matter, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publicly available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to and necessary for, the proceeding; and (2) compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractor of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

5. A record from this system may be disclosed as a routine use to foreign governments in accordance with treaties, international conventions, or executive agreements.

6. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

7. A record from the system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records may be stored as paper records, electronic media, and videotapes.

RETRIEVABILITY:

Records may be retrieved by name and/or social security number.

SAFEGUARDS:

Paper records and videotapes are maintained in locked cabinets. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), secured for classified information and are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Intelligence, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The managers of the System Locations listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the Department's Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters, Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Office at the appropriate address identified above under System Locations. Requests for polygraph records should be directed to the FOIA/PA Division, U.S. Department of Energy (Headquarters). The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as notification procedures above. Records are generally kept at locations where work is performed. In accordance with DOE's Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, present and former DOE employees and DOE contractor employees; consultants; publicly available material; other agencies within the Intelligence Community; other agencies within the U.S. Government, other offices within the DOE; the FBI, and other federal, state and local law enforcement agencies; and sources contacted during investigations.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt pursuant to (k)(1), (2) and (5) of the Privacy Act, 5 U.S.C. 552a, to the extent that information within the system meets the requirements of those subsections of the Act. To the extent the information in this system of records is exempt pursuant to 5 U.S.C. 552a(k)(1), (2) and (5), the system has been further exempted from subsections (c)(3) and (4), (d), (e)(1), (e)(4)(G) and (H) and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. See DOE's Privacy Act Regulation at 10 CFR 1008.12.

DOE–18

SYSTEM NAME:

Accounts Payable Financial System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR, 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83404

U.S. Department of Energy, National Energy Technology Laboratory, (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory, (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U. S. Department of Energy, National Petroleum Technology Office, William Center, Tower One, 1West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 North Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Naval Petroleum Reserves in California, P.O. Box 11, Tupman, CA 93276

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U. S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80402–0928

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29808

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301–1069

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Creditors who are due money from the Department of Energy (DOE), including employees, former employees, contractors, and members of the general public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Creditors name and address; amount owed and services or goods received; underpayment or other accounting information; invoice number; servicing bank name and address, and account number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; the GAO Policy and Procedures Manual; Statement of Federal Financial Accounting Standards published by the General Accounting Office and the Office of Management and Budget.

PURPOSE(S):

The records are maintained and used by the DOE to substantiate obligations and payments to individuals for goods and services received by the agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to the appropriate local, State or Federal when that record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

2. A record from this system may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; and (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

4. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

5. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper, electronic files, and magnetic tapes.

RETRIEVABILITY:

Records may be retrieved by name and personal identification.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Office of Chief Financial Officer, 1000 Independence Avenue, SW., Washington, DC 20585. Field Offices: The Managers of the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy

Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individual, contracting officer, and accounting records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–19

SYSTEM NAME:

Accounts Receivable Financial System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserve, 907 N. Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Naval Petroleum Reserves in California, P.O. Box 11, Tupman, CA 93276

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Suite 700N, Oakland, CA94612–5208

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343–3020

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 10940, West Mifflin, PA 15236–0940

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, Federal Building Lobby, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80402–0928

U.S. Department of Energy, Savannah River Operations Office, Road 1A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 3063

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 7410

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons owing money to the Department of Energy (DOE).

CATEGORIES OF RECORDS IN SYSTEM:

The following information may be maintained in the system:

name, address, telephone number, taxpayer identification number, and other applicable debtor identifying information; invoice number; amount and status of claim; and history of claim, including collection actions taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Debt Collection Improvement Act of 1996, 31 U.S.C. 3512; 5 U.S.C. 5701–09; Federal Property Management Regulations 101–107; Treasury Financial Manual; Executive Order 12009; and Executive Order 9397.

PURPOSE(S):

The records are maintained and used by the DOE to record and manage the Department's accounts receivables.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. A record from this system may be disclosed as a routine use to other Federal agencies, consumer reporting agencies for acquiring credit information, and collection agencies to aid in the collection of outstanding debts owed to the Federal Government.

2. A record from this system may be disclosed as a routine use to Defense Manpower Data Center, Department of Defense, the United States Postal Service, and the other Federal, State, or local agencies to identify and locate, through computer matching, individuals indebted to DOE who are receiving Federal salaries or benefit payments. Information from the match will be used to collect the debts by voluntary repayment, by administrative offset, or by salary offset procedures.

3. A record from this system may be disclosed as a routine use to the Internal Revenue Service (1) to collect the debt by offset against the debtor's tax refunds under the Federal Tax Refund Offset Program, and (2) to obtain the mailing address of a taxpayer to collect a debt owed to the DOE. Subsequent disclosure by DOE to a consumer reporting agency is limited to the purpose of obtaining a commercial credit report on the particular taxpayer. The mailing address information will not be used for any other DOE purpose or disclosed by DOE to another Federal, State, or local agency which seeks to locate the same individual for its own debt collection purpose.

4. A record from this system may be disclosed as a routine use to the Department of the Treasury for the

purpose of administrative offset and debt recovery under section 31001 (m)(1) of the Debt Collection Improvement Act of 1996 (Pub. L. 104–134).

5. A record from this system may be disclosed as a routine use to a ''consumer reporting agency'' as defined by the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collections Act of 1966, 31 U.S.C. 3701(a)(3), in accordance with 31 U.S.C. 3711(f).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, taxpayer identification number, or invoice number.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Office of Chief Financial Officer, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Chief Financial Officers of the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The individual who is the subject of the record; contracting officer, where applicable; and accounting records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–21

SYSTEM NAME:

Emergency Defense Mobilization Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, Office of Emergency Management, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY SYSTEM:

Members of the National Defense Executive Reserve and other individuals assigned responsibilities in the event of a national defense emergency.

CATEGORIES OF RECORDS IN THE SYSTEM:

The following information may be maintained in the system:

name, home address, home telephone number, and e-mail address.

AUTHORITY FOR MAINTENANCE OF SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Defense Production Act of 1950.

PURPOSE(S):

The records are maintained and used by the Department of Energy (DOE) to facilitate security clearance information for prompt re-assignment in the event of a reservist call-up and activation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to officials of other departments and agencies to administer the National Defense Executive Reserve Program.

2. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored as paper records.

RETRIEVABILITY: RECORDS MAY BE RETRIEVED BY NAME.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of Emergency Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORDS ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–23

SYSTEM NAME:

Property Accountability System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, National Energy Technology Laboratory, (Pittsburgh) P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Southeastern Area Power Administration, 2 S. Public Square, Elberton, GA 30635–2496

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK, 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE) and contractor employees authorized to be custodians of controlled DOE equipment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Item description, date of purchase, acquire date, purchase price, purchase order number, vendor and manufacturer, model/serial/license number, property tag identification, status/date, condition of property, operation number, high risk field, disposal code, responsible officer, the employees' assigned equipment, account numbers, organization, organization code, and location.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Federal Property and Administrative Services Act of 1949, section 202(b), 40 U.S.C. 483(b); and 41 CFR part 109, Federal Property Management Regulation (FPMR), Subchapter E, part 109.

PURPOSE(S):

The records are maintained and used by the DOE to (a) provide inventories to satisfy other Federal Procurement Management Regulation requirements; (b) to maintain a record of location of emergency equipment; (c) to control equipment assignments authorized under union contracts; (d) to provide management information necessary for the budgeting and allocation of equipment; and (e) to provide evidence of assignment, location, and value in the event that government property is stolen.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to any law enforcement agency as needed to provide evidence of assignment, location, and value in the event that Government property is stolen.

2. A record from the system may be disclosed as a routine use to the appropriate local, State or Federal agency when that record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

3. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; and (3) witness, potential witness, or their representatives and assistants, and any other person who possess information pertaining to the matter when it is necessary to obtain information or testimony relevant to the matter.

4. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

5. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

6. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

7. A record from this system of records may be disclosed as a routine use to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by tag number, license number, custodian name, employee identification number, position number, accounting information, catalog number, contract number, make, model, security logon identification, serial number, and storage location.

SAFEGUARDS:

Paper records and microfilm are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National

Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Southeastern Area Power Administration, 2 S. Public Square, Elberton, GA 30635–2496

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK, 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Information in this system comes from the Payroll/Personnel system application, various internal Bonneville Power Administrative forms, accountable property representative and employees, data processing personnel, and supply officers.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–24

SYSTEM NAME:

Land Records System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Bonneville Power Administration, Information Resources, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals from whom or to whom Western Area Power Administration and Bonneville Power Administration have acquired or given interests in land.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual, agency, and/or company names; description of land tract, type of agreement; rights granted or received; history of the transaction, and IRS Form 1099 information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the DOE to track land rights information resulting from property right acquisitions outgrants, licenses, transfer, exchanges, encroachments and disposals in support of Western Power Administration and Bonneville Power Administration construction and maintenance programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

2. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to (1) a person representing the Department or assisting in such representation; (2) others involved in the matter, their representatives and persons assisting such persons; and (3) witnesses, potential witnesses, their representatives and assistants, and any other persons possessing information pertaining to the matter when it is necessary to obtain information or testimony relevant to the matter.

3. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractor of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

4. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

5. A record from the system may be disclosed as a routine use to the Internal Revenue Service to provide notification of individuals who have received payment exceeding $600 on any one land right transaction.

6. A record from the system may be disclosed as a routine use to the Department of Justice to provide support of land right condemnation actions.

7. A record from the system may be disclosed as a routine use to courts and attorneys for the purpose of land right settlement disputes or litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by line identification, personal identification, cross referenced by name of landowner, grantee, or grantor.

SAFEGUARDS:

Paper records and microfilm are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS(S):

Bonneville Power Administration: Manager, Real Estate, Bonneville Power Administration, U.S. Department of Energy, P.O. Box 3621, Portland, OR 97208

Western Area Power Administration: Director, Division of Lands, Western Area Power Administration, U.S. Department of Energy, P.O. Box 3402, Golden, CO 80401.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Information in this system comes from individual landowners, grantees, or grantors; agency officials; and state and local authorities.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–25

SYSTEM NAME:

Commuter Locator and Parking Space Information System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Department of Energy (DOE) employees and contractor employees who apply as members of a car pool or van pool for parking spaces managed and controlled by DOE under the general direction of the General Services Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of driver and car or van pool members, federal service computation date, payroll and other assigned number, office address and telephone number, home addresses, home telephone numbers, make and year of automobile, state of registration, tag number of vehicles, number of days per week in the car pool or van pool, and other car pooling or van pooling information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Executive Order 12778; DOE HQ 0344.1 Parking.

PURPOSE(S):

Records are maintained and used by DOE to maintain information of existing car pools, van pools, and other categories of parking, in order to keep a current record on employees who commute to work.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the Council of Governments for commuter connections.

2. A record from this system may be disclosed as a routine use to individuals seeking to car pool or van pool operating from their community or residential area.

3. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, location of parking assignment, home address, assigned number, and license number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director of Building Operations U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, Part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD AND ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

RECORD SOURCE CATEGORIES:

Individual car poolers and van poolers.

DOE–26

SYSTEM NAME:

Official Travel Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Center (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Center (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Tower Center One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves in Colorado, Utah, and Wyoming, 907 North Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Naval Petroleum Reserves in California, 28950 Highway 119, P.O. Box 11, Tupman, CA 93276

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U. S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29808

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301–1069

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who travel or relocate at the expense of DOE.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, social security number, travel itinerary, mode and purpose of travel, advance amount, expenses claimed, amounts reimbursed, charge card account numbers, residential sales records, and receipts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 5 U.S.C. 301; 5 U.S.C. Chapter 57; Policy and Procedures Manual for Guidance of Federal Agencies, Titles 3 and 4; Federal Travel Regulation; Federal Property Management Regulations 101–41; Department of Energy Order DOE 1500.2A, Travel Policy and Procedures.

PURPOSE(S):

The records are maintained and used by DOE to document official domestic and foreign travel and relocation expenditures and to support reimbursement of allowable expenses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the U.S. Treasury for payment of claim.

2. A record from this system may be disclosed as a routine use to the U.S. General Accounting Office for audit and verification of accuracy and legality of disbursements.

3. A record from this system may be disclosed as a routine use to the Internal Revenue Service for notification regarding taxable reimbursements.

4. A record from this system may be disclosed as a routine use to the General Services Administration for audit of transportation services.

5. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, social security number, and travel authorization number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Office of Chief Financial Officer, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers of the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Individual travelers, supervisors, Government travel offices, and finance office standard references.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–28

SYSTEM NAME:

General Training Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Headquarters, Germantown, 19901 Germantown Road, Germantown, MD 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA, 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120–0030

U.S. Department of Energy, Argonne Area Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Atlanta Support Office, 730 Peachtree, NE., Suite 876, Atlanta, GA 30308

U.S. Department of Energy, Batavia Area Office, P.O. Box 2000, Batavia, IL 60510

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Bonneville Power Administration, Lower Columbia Area, 1500 NE., Irving Street, Portland, OR 97232

U.S. Department of Energy, Bonneville Power Administration, Puget Sound Area, 201 Queen Ann Avenue, N., Suite 400, P.O. Box C—19030, Seattle, WA 98109–1030

U.S. Department of Energy, Bonneville Power Administration, Snake River Area, 101 West Poplar, Walla Walla, WA 99362

U.S. Department of Energy, Bonneville Power Administration, Upper Columbia Area, Room 561, U.S. Court House, W. 920 Riverside Avenue, Spokane, WA 99201

U.S. Department of Energy, Boston Support Office, One Congress Street, Room 1101, Boston, MA 02114–2021

US. Department of Energy, Brookhaven Area Office, 53 Bell Avenue, Bldg. 464, Upton, NY 11973

U.S. Department of Energy, Brookhaven National Laboratory, P.O. Box 5000, Upton, NY 11973–5000

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Continuous Electron Beam Accelerator Facility, 12000 Jefferson Avenue, Newport News, VA 23606

US. Department of Energy, Dallas Support Office, 1420 W. Mockingbird Lane, Suite 400, Dallas, TX 75247

U.S. Department of Energy, Dayton Area Office, P.O. Box 66, Miamisburg, OH 45342–0066

U.S. Department of Energy, Denver Support Office, 2801 Youngfield Street, Suite 380, Golden, CO 80401–2266

U.S. Department of Energy, Fernald Field Office, 7400 Willey Road, Cincinnati, OH 45030

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Kansas City Area Office, P.O. Box 410202, Kansas City, MO 64141–0202

U.S. Department of Energy, Kansas City Support Office, 911 Walnut Street, Room 1411, Kansas City, MO 64106

U.S. Department of Energy, Kirtland Area Office. P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, University of California, Los Alamos National Laboratory, P.O. Box 1663, Los Alamos, NM 87545

U.S. Department of Energy, Metairie Site Office, 900 Commerce Road, East, New Orleans, LA 70123

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, New York Support Office, 26 Federal Plaza, Room 3437, New York, NY 10278–0068

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Office of Scientific and Technical Information, P.O. Box 62, Oak Ridge, TN 37831

U.S. Department of Energy, Office of Superconducting Super Collider, 2550 Beckleymeade Avenue, MS 1020, Dallas, TX 75237–3946

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Philadelphia Support Office, 1880 John F. Kennedy Blvd., Ste 501, Philadelphia, PA 19103–7483

US. Department of Energy, Phoenix Area Office, P.O. Box 6457, Phoenix, AZ 85005

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Pittsburgh Naval Reactors Office, Idaho Branch Office, P.O. Box 2469, Idaho Falls, ID 83403–2469

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Seattle Support Office, 800 Fifth Avenue, Suite 3950, Seattle, WA 98104

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Bldg., Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Western Area Power Administration, Billings Area Office, P.O. Box 35800, Billings, MT 59107–5800

U.S. Department of Energy, Western Area Power Administration, Loveland Area Office, P.O. Box 3700, Loveland, CO 80539–3003

U.S. Department of Energy, Western Area Power Administration, Salt Lake City Area Office, P.O. Box 11606, Salt Lake City, UT 84147–0606

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Department of Energy (DOE) Federal Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; resume; assigned number; occupational series; training requests and authorizations; grade; organization; date of birth; social security number; home address and telephone number; special interest area; education completed; course name; justification for attending the course; direct and indirect costs of training; coded information dealing with purpose, type, source of training; training evaluations; course evaluation forms; training examinations; training attendance records; lesson plans; training assignment sheets; reading assignment sheets; position qualification statement; self study sheet; position descriptions; accounting records; and quarterly training report.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Nuclear Waste Policy Act of 1982 (Pub. L. 97–425); Nuclear Waste Policy Amendment Act of 1987 (Pub. L. 100–203); Government Employees Training Act of 1958; and 5 CFR parts 410 and 412,

PURPOSE(S):

Records are maintained and used by the Department to document planning, completion, funding and effectiveness of employee training and development. Appropriate local, State and Federal agencies use certain records maintained in this system to ensure Departmental compliance with other regulatory requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to Federal agencies, including the Office of Personnel Management, for purposes of determining eligibility or suitability for training and as source documents for training reports; to training institutions that personnel have requested to attend; and to other Federal agencies as necessary for payment of training.

2. A record from this system may be disclosed as a routine use to state and local governments, the Nuclear Regulatory Commission (NRC), and other Federal agencies that conduct research, investigations, or audits to determine whether DOE and contractor personnel satisfy quality assurance requirements for activities necessary to obtain a license from the NRC for the construction, operation and closing of a nuclear waste repository and/or a Monitored Retrievable Storage facility. These activities also will include research and development, site characterization, transportation, waste packaging, handling, design, maintenance, performance confirmation, inspection, fabrication, and development and production of repository waste forms.

3. A record from this system may be disclosed as a routine use to federal, state or local government officials where the regulatory program being implemented is applicable to the DOE or contractor program and requires that such access be provided for the conduct of the regulatory agencies' activities. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the record.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Director, Training and Human Resource Development, 1000 Independence Avenue, SW., Washington, DC 20585–0702.

Field Offices: The Managers and Directors of the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individuals and their supervisors.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–33

SYSTEM NAME:

Personnel Medical Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Wash, DC 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Allied-Signal, Kansas City Division, P.O. Box 419159, Kansas City, MO 64141

U.S. Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120–0030

U.S. Department of Energy, Ames Laboratory, Iowa State University, Ames, IA 50011

U.S. Department of Energy, Argonne Area Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Ashtabula Area Office, P.O. Box 579, Ashtabula, OH 44005–0579

U.S. Department of Energy, Bartlesville Project Office, 220 North Virginia Avenue, P.O. Box 1398, Bartlesville, OK 74003

U.S. Department of Energy, Battelle Columbus Laboratories, 505 King Avenue, Room A–496 Columbus, OH 43201

U.S. Department of Energy, Batavia Area Office, P.O. Box 2000, Batavia, IL 60510

U.S. Department of Energy, Bettis Atomic Power Laboratory, P.O. Box 79, Pittsburgh, PA 15122–0079

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Brookhaven Area Office, 53 Bell Avenue, Bldg 464, Upton, NY 11973

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Continuous Electron Beam Accelerator Facility, 12000 Jefferson Avenue, Newport News, VA 23606

U.S. Department of Energy, Dayton Area Office, P.O. Box 66, Miamisburg, OH 45342–0066

U.S. Department of Energy, EG&G Mound Applied Technologies, P.O. Box 3000, Miamisburg, OH 45343–3000

U.S. Department of Energy, Environmental Measurements Laboratory, 376 Hudson Street, New York, NY 10014–3621

U.S. Department of Energy, Fermi National Accelerator Laboratory, P.O. Box 500, Batavia, IL 60510

U.S. Department of Energy, Fernald Environmental Restoration Management Corporation, P.O. Box 398704, Cincinnati, OH 45239–8704

U.S. Department of Energy, Fernald Field Office, 7400 Willey Road, Cincinnati, OH 45030

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Grand Junction, P.O. Box 2567, Grand Junction, CO 81502–2567

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive MS 1214, Idaho Falls, ID 83404

U.S. Department of Energy, Inhalation Toxicology Research Institute, P.O. Box 5890, Albuquerque, NM 87185

U.S. Department of Energy, Kansas City Area Office, P.O. Box 410202, Kansas City, MO 64141–0202

U.S. Department of Energy, Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Knolls Atomic Power Laboratory, P.O. Box 1072, Schenectady, NY 12301

U.S. Department of Energy, Lawrence Livermore National Laboratory, P.O. Box 808, Livermore, CA 94551

U.S. Department of Energy, Lawrence Berkeley Laboratory, One Cyclotron Road, Building 26, Room 143, Berkeley, CA 94720

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, Lockheed Martin Energy Systems, Inc., Y–12 Plant, P.O. Box 2009 Oak Ridge, Tennessee 37831–8103

U.S. Department of Energy, Lockheed Martin Energy Systems, Inc., K–25 Plant, P.O. Box 2003 Oak Ridge, TN 37831–7422

U.S. Department of Energy, MK Ferguson of Oak Ridge Company, P.O. Box 2011, Oak Ridge, TN 37831–2011

U.S. Department of Energy, National Energy Technology Center (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Center (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, National Renewable Energy Laboratory Area Office, 1617 Cole Boulevard, Golden, CO 80401–3393

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 N. Poplar, Suite 150 Casper, WY 82601

U.S. Department of Energy, Naval Petroleum Reserves in California, 28590 Highway 119, P.O. Box 11, Tupman, CA 93276

U.S. Department of Energy, Naval Reactors Representative Office, Naval Base Branch Post Office, General Delivery, Charleston Naval Shipyard, Charleston, SC 29408–5615

U.S. Department of Energy, Naval Reactors Representative Office, P.O. Box 7021, Groton, CT 06340

U.S. Department of Energy, Naval Reactors Representative Office, Mare Island Naval Shipyard P.O. Box 2053, Vallejo, CA 94592

U.S. Department of Energy, Naval Reactors Representative Office, Newport News Shipbuilding & Dry Dock Company, P.O. Box 973, Newport News, VA 23607

U.S. Department of Energy, Naval Reactors Representative Office, Norfolk Naval Shipyard P.O. Box 848, Portsmouth, VA 23705–0848

U.S. Department of Energy, Naval Reactors Representative Office, Pearl Harbor Naval Shipyard P.O. Box 128, Pearl Harbor, HI 96860

U.S. Department of Energy, Naval Reactors Representative Office, Portsmouth Naval Shipyard Naval Base Branch, P.O. Box 2008, Portsmouth, NH 03801–2008

U.S. Department of Energy, Naval Reactors Representative Office, Puget Sound Naval Shipyard Substation, P.O. Box 1A, Bremerton, WA 98314

U.S. Department of Energy, Nevada Test Site Mercury, Mercury, NV 89023

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, New Brunswick Laboratory, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–52019

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Phoenix Area Office, P.O. Box 6457, Phoenix, AZ 85005

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Plasma Physics Laboratory, James Forrestal Campus, Princeton University, P.O. Box 451, Princeton, NJ 08543

U.S. Department of Energy, Portsmouth Enrichment Office, P.O. Box 700, Piketon, OH 45661

U.S. Department of Energy, Princeton Area Office, P.O. Box 102, Princeton, NJ 08542

U.S. Department of Energy, Radiological and Environmental Sciences Laboratory, 785 DOE Place, Idaho Falls, ID 83402

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocketdyne—Rockwell Aerospace, 6633 Canoga Avenue, P.O. Box 7922, Department 056 EA08, Canoga Park, California 91309–7922

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 8040–8200

U.S. Department of Energy, Sandia National Laboratories, P.O. Box 5800, Albuquerque, NM 87115

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Stanford Linear Accelerator Center, P.O. Box 4349, Stanford, California 94309

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Waste Isolation Pilot Plant, Westinghouse Electric Company, Waste Isolation Division, P.O. Box 2078, Carlsbad, NM 88220

U.S. Department of Energy, Weldon Spring Site Remedial Action Project, 7295 Highway 94 South, St. Charles, MO 63304

U.S. Department of Energy, West Valley Nuclear Service Company, Inc., P.O. Box 191, MS: F, West Valley, NY 14171

U.S. Department of Energy, Waste Isolation Pilot Project Office, P.O. Box 3090, Carlsbad, NM 88221

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Westinghouse Electric Corporation, Bettis Atomic Power Laboratory, Naval Reactors Facility, P.O. Box 2068, Idaho Falls, ID 83403–2068

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former Department of Energy (DOE) employees and DOE contractor employees. This system includes in-patients at Kadlec Hospital, Richland, WA, prior to September 9, 1956.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories on contractor employees resulting from medical examination; in cases of injury, description of injury occurrence and treatment; medical records of periodic physical examinations and psychological testing, blood donor program records, audiometric testing, routine first aid, and other visits; hospital in-patients at Kadlec Hospital; Records on the results of work place and medical monitoring of individuals for exposure to chemical and physical agents (not covered in DOE–35) and related work history data, including drug testing information and results; contractor employee-completed health questionnaires not resulting from a medical examination; information from the contractor employee's private medical doctor or other health care providers, such as hospitals or laboratories not generated from workplace medical examinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Atomic Energy Act of 1954, (42 U.S.C. 2051a), section 31a; Economy Act of 1932, as amended, (31 U.S.C. 1535); 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; and DOE Order 440.1.

PURPOSE(S):

The records are maintained and used by the Department to: (a) Provide data necessary for proper medical evaluations, diagnosis, treatment and care; (b) provide an accurate medical history, included job and/or hazard exposure documentation and health monitoring in relation to health status and claims of the individual; (c) provide a method for evaluating quality of health care rendered and job-health protection including engineering protection provided, protective equipment, workplace monitoring, and medical examinations monitoring required by the Occupational Safety Health Administration (OSHA) or by good practice; (d) provide data for health hazard evaluations, epidemiologic studies and public health activities; (e) ensure that all relevant, necessary, accurate, and timely data are available to support any medically-related employment decisions affecting the subject of the records, including decisions pertaining to the fitness-for-duty and disability retirement; (f) document possible re-employment rights under statutes governing that program; (g) document employee's reporting of on-the-job injuries or unhealthy or unsafe working conditions, including the reporting of such conditions to the OSHA and actions taken by the agency or by the employing agency; and (h) ensure proper and accurate operation of the agency's employee drug testing program under Executive Order 12564.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to physicians, the U.S. Department of Labor, various state departments of labor and industry groups, and contractors to: (a) Ascertain suitability of an employee for job assignments with regard to health; (b) provide benefits under Federal programs or contracts; and (c) maintain a record of occupational injuries or illnesses and the performance of regular diagnostic and treatment services to patients.

2. A record from the system may be disclosed as a routine use to the appropriate local, State or Federal agency in the event that a record within this system of records, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

3. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractor of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

4. A record from this system of records may be disclosed to a Federal agency, in response to its written request, to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

6. A record from this system of records may be disclosed as a routine use to a member of Congress submitting a request involving the constituent when the constituent has requested the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from this system may be disclosed as a routine use to contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health and the National Center for Environmental Health of the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry pursuant to Memoranda of Understanding between the Department and the Department of Health and Human Services or its components.

8. A record from this system may be disclosed as a routine use to contractors, grantees, participants in cooperative agreements, collaborating researchers, or their employees, when conducting health studies or related health or environmental duties pursuant to their contracts, grants, and cooperating or collaborating research agreements. In order to conduct such studies, the Department, its contractors, grantees, participants in cooperative agreements, and collaborating researchers may disclose a record to federal, state and local health and medical agencies or authorities; to subcontractors in order to determine a subject's vital status or cause of death; to health care providers to verify a diagnosis or cause of death; or to third parties to obtain current addresses for participants in health-related studies, surveys and surveillance. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the above described research purposes.

9. A record from this system may be disclosed as a routine use to members of DOE advisory committees, the Department of Health and Human Services Advisory Committee on Projects Related to Department of Energy Facilities and to designated employees of Federal, State, or local government or government-sponsored entities authorized to provide advice to the Department concerning health, safety or environmental issues. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the purpose of providing advice to the Department or to the Department of Health and Human Services.

10. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public information on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records.

Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Assistant Secretary for Environment, Safety, and Health, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers and Directors of ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The individual who is the subject of the record, physicians, medical institutions, Office of Workers Compensation Programs, military retired pay systems records, Federal civilian retirement systems, Office of Personnel Management retirement life insurance and health benefits records system, and the personnel management records systems of the Office of Personnel Management.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–34

SYSTEM NAME:

Employee Assistance Program (EAP) Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, Forrestal Building., 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Headquarters, Germantown, 19901 Germantown Road, Germantown, MD 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle WA, 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Amarillo Area Office, Highway 60 FM2372, Amarillo, TX 79120

U.S. Department of Energy, Argonne Area Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Atlanta Regional Support Office, 730 Peachtree, NE., Suite 876, Atlanta, GA 30308

U.S. Department of Energy, Batavia Area Office, P.O. Box 2000, Batavia, IL 60510

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Boston Regional Office, JFK Federal Building, Room 675 Boston, MA 02203–0002

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Fernald Field Office, 7400 Willey Road, Cincinnati, OH 45030

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Kansas City Area Office, P.O. Box 410202, Kansas City, MO 64141–0202

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Office of Scientific and Technical Information, P.O. Box 62, Oak Ridge, TN 37831

U.S. Department of Energy, Office of Superconducting Super Collider, 2550 Beckleymeade Avenue, MS 1020, Dallas, TX 75237–3946

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Pittsburgh Naval Reactors Office, Idaho Branch Office, P.O. Box 2469, Idaho Falls, ID 83403–2469

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Bldg., Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Department of Energy (DOE) employees who have contacted a service provider and have received counseling and/or have been referred for assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Employee profile—name; social security number; work and home addresses, and work and home telephone numbers; job title and grade level; organization; supervisor's name and telephone number; sex; race; marital status; spouse and family members' names; name, address, and telephone number of any previously seen counselor or treatment facility; security clearance; (b) interest inventory and/or psychological test results; (c) issue(s) inventory; (d) case notes; (e) consent/release forms; (f) correspondence, including referrals to community resources and/or treatment facilities; and (g) medical and/or psychological reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Public Law 91–616, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970; Pub. L. 102–142, The Omnibus Transportation Employee Testing Act of 1991; 5 U.S.C. 301, 7901, and 7904; 5 CFR part 792; and 15 U.S.C. 764.

PURPOSE(S):

The records are maintained and used by the Department to document employees seeking assistance on behavioral problems or issues.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

2. A record from the system may be disclosed as a routine use to the appropriate local, State or Federal

agency in the event that a record within this system of records, alone or in conjunction with other information, if the employee is suspected of child, spousal, or elder abuse.

3. A record from this system may be disclosed as a routine use to any person or entity to the extent necessary to prevent an imminent or potential crime which directly threatens loss of life or serious bodily injury.

4. A record from this system may be disclosed as a routine use to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report, or otherwise disclose patient identities in any manner.

5. A record from this system may be disclosed as a routine use to the Department of Justice or other appropriate Federal agencies in defending claims against the United States, when the claim results from action against an individual based upon the individual's behavior, or mental or physical condition, or is alleged to have arisen because of activities of any Federal agency in connection with the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Director of Human Resources Management, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Human Resource Directors of the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as notification procedures above. Records are generally kept at locations where the work is performed. In accordance with DOE Privacy Act regulation, identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject employee, employee's supervisor(s), employee assistance program coordinator, staff of the applicable servicing personnel office, staff of the applicable personnel security office, and therapists or institutions providing treatment.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–35

SYSTEM NAME:

Personnel Radiation Exposure Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Allied-Signal, Kansas City Division, P.O. Box 419159, Kansas City, MO 64141

U.S. Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120–0030

U.S. Department of Energy, Ames Laboratory, No. 311TASF, Iowa State University, Ames, IA 50011

U.S. Department of Energy, Argonne Area Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Batavia Area Office, P.O. Box 2000, Batavia, IL 60510

U.S. Department of Energy, Bettis Atomic Power Laboratory, P.O. Box 79, Pittsburgh, PA 15122–0079

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Brookhaven Area Office, 53 Bell Avenue, Bldg 464, Upton, NY 11973

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Continuous Electron Beam Accelerator Facility, 12000 Jefferson Avenue, Newport News, VA 23606

U.S. Department of Energy, Dayton Area Office, P.O. Box 66, Miamisburg, OH 45342–0066

U.S. Department of Energy, EG&G Mound Applied Technologies, P.O. Box 3000, Miamisburg, OH 45343–3000

U.S. Department of Energy, Environmental Measurements Laboratory, 376 Hudson Street, New York, NY 10014–3621

U.S. Department of Energy, Fermi National Accelerator Laboratory, P.O. Box 500, Batavia, IL 60510

U.S. Department of Energy, Fernald Environmental Restoration Management Corporation, P.O. Box 398704, Cincinnati, OH 45239–8704

U.S. Department of Energy, Fernald Field Office, 7400 Willey Road, Cincinnati, OH 45030

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Grand Junction, P.O. Box 2567, Grand Junction, CO 81502–2567

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83404

U.S. Department of Energy, Inhalation Toxicology Research Institute, P.O. Box 5890, Albuquerque, NM 87185

U.S. Department of Energy, Kansas City Area Office, P.O. Box 410202, Kansas City, MO 64141–0202

U.S. Department of Energy, Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Knolls Atomic Power Laboratory, P.O. Box 1072, Schenectady, NY 12301

U.S. Department of Energy, Lawrence Livermore National Laboratory, P.O. Box 808, Livermore, CA 94551

U.S. Department of Energy, Lawrence Berkeley Laboratory, One Cyclotron Road, Building 26, Room 143, Berkeley, CA 94720

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, Lockheed Martin Energy Systems, Inc., Y–12 Plant, P.O. Box 2009 Oak Ridge, TN 37831–8103

U.S. Department of Energy, Lockheed Martin Energy Systems, Inc., K–25 Plant, P.O. Box 2003 Oak Ridge, TN 37831–7422

U.S. Department of Energy, MK Ferguson of Oak Ridge Company, P.O. Box 2011, Oak Ridge, TN 37831–2011

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, National Institute for Petroleum and Energy Research, BDM–Oklahoma, Inc., P.O. Box 2565, Bartlesville, OK 74005

U.S. Department of Energy, National Renewable Energy Laboratory Area Office, 1617 Cole Boulevard, Golden, CO 80401–3393

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 N. Poplar, Suite 150 Casper, WY 82601

U.S. Department of Energy, Naval Petroleum Reserves in California, P.O. Box 11, Tupman, CA 93276

U.S. Department of Energy, Naval Reactors Representative Office, Naval Base Branch Post Office, General Delivery, Charleston Naval Shipyard, Charleston, SC 29408–5615

U.S. Department of Energy, Naval Reactors Representative Office, P.O. Box 7021, Groton, CT 06340

U.S. Department of Energy, Naval Reactors Representative Office, Mare Island Naval Shipyard P.O. Box 2053, Vallejo, CA 94592

U.S. Department of Energy, Naval Reactors Representative Office, Newport News Shipbuilding & Dry Dock Company, P.O. Box 973, Newport News, VA 23607

U.S. Department of Energy, Naval Reactors Representative Office, Norfolk Naval Shipyard P.O. Box 848, Portsmouth, VA 23705–0848

U.S. Department of Energy, Naval Reactors Representative Office, Pearl Harbor Naval Shipyard P.O. Box 128, Pearl Harbor, HI 96860

U.S. Department of Energy, Naval Reactors Representative Office, Portsmouth Naval Shipyard Naval Base Branch, P.O. Box 2008, Portsmouth, NH 03801–2008

U.S. Department of Energy, Naval Reactors Representative Office, Puget Sound Naval Shipyard Substation, P.O. Box 1A, Bremerton, WA 98314

U.S. Department of Energy, Nevada Test Site Mercury, Mercury, NV 89023

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, New Brunswick Laboratory, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–52019

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Phoenix Area Office, P.O. Box 6457, Phoenix, AZ 85005

U.S. Department of Energy, Pinellas Area Office, P.O. Box 2900, Largo, FL 34649

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Plasma Physics Laboratory, James Forrestal Campus, Princeton University, P.O. Box 451, Princeton, NJ 08543

U.S. Department of Energy, Portsmouth Enrichment Office, P.O. Box 700, Piketon, OH 45661

U.S. Department of Energy, Princeton Area Office, P.O. Box 102, Princeton, NJ 08542

U.S. Department of Energy, Radiological and Environmental Sciences Laboratory, 850 Energy Drive, Idaho Falls, ID 83402

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocketdyne—Rockwell Aerospace, 6633 Canoga Avenue, P.O. Box 7922, Department 056 EA08, Canoga Park, CA 91309–7922

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A Golden, CO 80403–8200

U.S. Department of Energy, Sandia National Laboratories, P.O. Box 5800, Albuquerque, NM 87115

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Stanford Linear Accelerator Center, P.O. Box 4349, Stanford, CA 94309

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Waste Isolation Pilot Plant, Westinghouse Electric Company, Waste Isolation Division, P.O. Box 2078, Carlsbad, NM 88220

U.S. Department of Energy, Weldon Spring Site Remedial Action Project, 7295 Highway 94 South, St. Charles, MO 63304

U.S. Department of Energy, West Valley Nuclear Service Company, Inc., 10282 Rock Springs Road, P.O. Box 191, MS: F, West Valley, NY 14171

U.S. Department of Energy, Waste Isolation Pilot Project Office, P.O. Box 3090, Carlsbad, NM 88221

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Westinghouse Electric Corporation, Bettis Atomic Power Laboratory, Naval Reactors Facility, P.O. Box 2068, Idaho Falls, ID 83403–2068

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Department of Energy (DOE) employees and contractor employees, and any other persons having access to certain DOE facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

DOE contractor personnel and other individuals' radiation exposure records, and other records, in connection with registries of uranium, transuranic, or other elements encountered in the nuclear industry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the Department for the purpose of

monitoring and recording levels of radiation exposure to individuals working or visiting DOE facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the Department of the Navy to monitor radiation exposure of Naval and other personnel.

2. A record from this system may be disclosed as a routine use to the Nuclear Regulatory Commission to monitor radiation exposure of DOE and its contractors and consultants, contractors from other agencies who have been exposed to ionizing radiation during nuclear testing, and to conduct epidemiological studies of radiation effects on individuals so identified.

3. A record from this system may be disclosed to the Department of Defense for the purpose of identifying DOD and DOD-contractor personnel exposed to ionizing radiation during nuclear testing and for conducting epidemiological studies of radiation effects on individuals so identified.

4. A record from this system may be disclosed as a routine use to contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health and the National Center for Environmental Health of the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry pursuant to a Memoranda of Understanding between the Department and the Department of Health and Human Services or its components.

5. A record from this system may be disclosed as a routine use to contractors, grantees, participants in cooperative agreements, and collaborating researchers, or the employees of these parties, in performance of health studies or related health or environmental duties pursuant to their contracts, grants, and cooperating or collaborating research agreements. In order to perform such studies, the Department, its contractors, grantees, participants in cooperative agreements, and collaborating researchers may disclose a record to federal, state and local health and medical agencies or authorities; to subcontractors in order to determine a subject's vital status or cause of death; to health care providers to verify a diagnosis or cause of death; or to third parties to obtain current addresses for participants in health-related studies, surveys and surveillance. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the above described research purposes.

6. A record from this system may be disclosed as a routine use to members of DOE advisory committees, the Department of Health and Human Services Advisory Committee on Projects Related to Department of Energy Facilities and to designated employees of Federal, State, or local government or government-sponsored entities authorized to provide advice to the Department concerning health, safety or environmental issues. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the purpose of providing advice to the Department or to the Department of Health and Human Services.

7. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public information on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, alphanumeric code, and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Assistant Secretary for Environment, Safety, Health, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers and Directors of the ''System locations'' listed above are the records are maintained are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE's Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, accident-incident investigations, film badges, dosimetry records, and previous employee records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–38

SYSTEM NAME:

Occupational and Industrial Accident Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATIONS:

U.S. Department of Energy Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585;

U.S. Department of Energy, Alaska Power Administration, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87115

U.S. Department of Energy, Amarillo Area Office, Pantex Plant, P.O. Box 1086, Amarillo, TX 79105

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Brookhaven Area Office, Upton, NY 11973

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Carbondale Mining Research Center, P.O. Box 2587, Carbondale, IL 62901

U.S. Department of Energy, Clinch River Breeder Reactor Plant Project, P.O. Box U, Oak Ridge, TN 37830

U.S. Department of Energy, Dayton Area Office, P.O. Box 66, Miamisburg, OH 45342

U.S. Department of Energy, Environmental Measurements Laboratory, 376 Hudson Street, New York, NY 10014

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Idaho Branch Office, P.O. Box 2469, Idaho Falls, ID 83401

U.S. Department of Energy, Kansas City Area Office, P.O. Box 202, Kansas City, MO 64141

U.S. Department of Energy, Knolls Atomic Power Laboratory, P.O. Box 1072, Schenectady, NY 12301

U.S. Department of Energy, Los Alamos Area Office, P.O. Box 5800, Los Alamos, NM 87544

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Naval Petroleum Reserve, P.O. Box 11, Tupman, CA 93276

U.S. Department of Energy, Nevada Test Site, Mercury, NV 89023

U.S. Department of Energy, New Brunswick Laboratory, D–350, 9800 S. Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U.S. Department of Energy, Pinellas Area Office, P.O. Box 11500, St. Petersburg, FL 33733

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Puerto Rico Area Office, P.O. Box BB, San Juan, PR 00935

U.S. Department of Energy, Rocky Flats Field Office, P.O. Box 928, Golden, CO 80401

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, 700–N, Oakland, CA 94612

U.S. Department of Energy, Sandia Area Office, P.O. Box 5800, Albuquerque, NM 87115

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Shippingport Branch Office, P.O. Box 11, Shippingport, PA 15077

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve, 900 Commerce Road, East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE) employees, contractor employees, and any other persons having access to DOE facilities who have had accidents on DOE facilities. Also individuals involved in accidents with employees or contractor employees or other persons having access to DOE facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Accident/incident information, occupational injury and illness experience, property damage experience, and motor vehicle accidents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Federal Tort Claims Act, 28 U.S.C. 2671–2680; Military Personnel and Civilian Employees Claims Act, 31 U.S.C. 240–243; Executive Order 12009.

PURPOSE(S):

The records are maintained and used by the Department to monitor and record information about DOE employees, contract employees, and other persons, who have had accidents on DOE facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to physicians, the Department of Labor, various state departments of labor and industry groups, and contractors who use information to: (a) Ascertain suitability of an employee for job assignments with regard to health (b) provide benefits under Federal programs or contracts, and (c) maintain a record of occupational injuries or illnesses and the performance of regular diagnostic and treatment services to patients.

2. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental

decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

6. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements.

7. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

8. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

9. A record from this system may be disclosed as a routine use to DOE contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health, the National Center for Environmental Health of the Center for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry when conducting epidemiological studies, or public health activities as required by law performed and pursuant to a Memorandum of Understanding between the Department and the Department of Health and Human Services or its components. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

10. A record from this system may be disclosed as a routine use to contractors, grantees, participants in cooperative agreements, and collaborating researchers, or the employees of these parties, when conducting health studies or related health or environmental duties pursuant to their contracts, grants, and cooperating or collaborating research agreements. In order to conduct the studies, the Department, its contractors, grantees, participants in cooperative agreements, and collaborating researchers may disclose a record to federal, state and local health and medical agencies or authorities; to subcontractors in order to determine a subjects vital status or cause of death; to health care providers to verify a diagnosis or cause of death; or to third parties to obtain current addresses for participants in health-related studies, surveys and surveillances. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the above descried research purpose. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

11. A record from this system of records may be disclosed to members of DOE advisory committees, the Department of Health and Human Services Advisory Committee on Project Related to Department of Energy Facilities and to designated employees of Federal, State, or local government or government-sponsored entities authorized to provide advice to the Department concerning health, safety, or environmental issues. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Assistant Secretary for Environmental, Safety, Health, EH–1, Washington, DC 20585.

Field Offices: The Managers and Directors of field locations listed above under ''System location(s)'' are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above

under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The individual who is the subject of the record, physicians, medical institutions, Office of Workers Compensation Programs, military retired pay system records, Federal civilian retirement systems, retirement life insurance and health benefits records system of the Office of Personnel Management, and the personnel management records systems of the Office of Personnel Management.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–41

SYSTEM NAME:

Legal Files (Claims, Litigation, Criminal Violations, Patents, and Others).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87115

U.S. Department of Energy, Bartlesville Energy Technology Center, P.O. Box 1398, Bartlesville, OK 74003

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Grand Forks Energy Technology Center, P.O. Box 8213, University Station, Grand Forks, ND 58201

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U. S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland CA 94162–5208

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden CO 80403–8200

U.S. Department of Energy, Oakland Operations Office, 1333 Broadway, Oakland, CA 94612

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons identified in files maintained by the Office of General Counsel, which includes attorneys at all DOE offices, from which information is retrieved by name or other personal identifier, including: litigants and other claimants against the Department and its contractors asserting matters including, but not limited to, personal injury, property damage or infringement (including intellectual property), contract violation and harms resulting from employer-employee relationships; persons who are the subjects of claims by the DOE, such as persons who may have violated criminal laws, DOE regulations and contracts with the DOE and persons against whom the DOE considered asserting such claims; DOE's contractors and potential contractors; persons holding copyrights and issued patents pertaining to the DOE's activities; DOE employees subject to garnishment or assignments; and DOE employees and contractor employees who use Alternative Dispute Resolution (ADR).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records concerning legal matters include, but are not limited to, documents pertaining to: (1) Litigation and all other claims against, and by, the DOE and its contractors, which have been assigned to the Office of General Counsel; (2) DOE contracts; (3) issued patents and copyright matters; (4) records pertaining ADR. Litigation and claim records may, among others, include correspondence, pleadings such as complaints, answers, and motions; depositions, court orders and briefs. Records in this system also may include accident reports, inspection reports, investigation reports, audit reports, personnel files, contracts, consultants agreements, reports pertaining to criminal matters of interest to the DOE, Personnel Security Review Board documents, medical records, photographs, telephone records, patents and related documents, correspondence, and memoranda.

Note: This system does not include records maintained in DOE–16, Standards of Conduct.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the Department to settle claims and prepare for litigation and resolve disputes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to: (1) A person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and

litigation, and their representatives and individuals assisting those representatives; (3) a witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements.

8. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, case name, claim name, or assigned identifying number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Office of General Counsel, GC–2, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Chief Counsels of the ''System location(s)'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U. S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individuals, inspection reports, other agencies, Office of General Counsel attorneys, other agency officers and staff, contractors, investigators, and auditors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt under subsection (k)(1), (k)(2), and (k)(5) of the Privacy Act, to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1) of the Act; see the DOE Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008.

DOE–43

SYSTEM NAME:

Personnel Security Files.

SECURITY CLASSIFICATION:

Unclassified and classified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 19901 Germantown Road, Germantown, MD 20874–1290

U.S. Department of Energy, Albuquerque Operations Office, P.O.

Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Department of Energy (DOE) employment; DOE employees including assignees and detailees, agents and consultants with the DOE, DOE contractors and subcontractors, and DOE access permittees processed for DOE access authorizations for access to classified matter or special nuclear materials; other

Federal agency contractor and subcontractor applicants for employment, and their employees, detailees, agents, and consultants processed for DOE access authorizations; and other individuals processed for DOE access authorizations as determined by the Secretary.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date and place of birth, Social Security Number, citizenship status, grade, organization, employer(s), initial investigation and reinvestigation history; and access authorization history; the formal request(s) and justification(s) for access authorization processing; security forms, fingerprint cards, and acknowledgments completed by the individual for both the initial investigation and reinvestigations; results of preemployment checks (if required); request(s) and approval(s) for issuance of a security badge(s); report of investigation provided by an agency which has previously conducted an investigation of the individual for employment or security clearance purposes; approvals for classified visits; photographs; security infraction reports; security termination statement(s), foreign travel document; letters of interrogatory, personnel security interview transcripts or summaries, and/or audio tapes of the interviews, and evaluations of the interviews; reports of hospitalization or treatment for a mental condition or substance abuse, including information provided by an Employee Assistance Program provider; reports of DOE-sponsored mental evaluations conducted by competent medical authorities; reports of security violations; public record information to include law enforcement, financial, divorce, bankruptcy, name change and other court information or reports and copies of information appearing in the media; security advisory letters; information concerning citizenship status, foreign contacts, and spouse and/or individual(s) with whom the individual resides; administrative review processing data; justifications for participation in sensitive DOE activities and/or for Sensitive Compartmented Information access approval; results of required testing for participation in sensitive DOE activities; documents concerning Interim Access Authorization processing or processing under section 145b of the Atomic Energy Act of 1954, as amended; written evaluations of reported derogatory information; credit check results; copies of correspondence to and from the individual concerning the items above and copies of inter-and intra-agency correspondence concerning the items above; and any other material relevant to the individual's DOE access authorization or special authorization eligibility or processing and, for DOE employees, suitability for Federal employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.;* 10 CFR part 710, subparts A and B; Executive Orders 10450 and 12968; 5 CFR part 732; DOE O 472.1B, Personnel Security Activities, of 3–24–97; Personnel Security Program Manual DOE M 472–1.1, of 5–22–98; and Director of Central Intelligence Directive 1/14 of 1–22–92.

PURPOSE(S):

The records are maintained and used by the Department as an official record of all information gathered and evaluated to determine an individual's initial and continued DOE access authorization eligibility and, if applicable, an individual's eligibility for participation in DOE sensitive activities or for access to Sensitive Compartmented Information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to competent medical authority who, under a formal agreement for payment of services with the local DOE personnel security element, conducts evaluations under Title 10, Code of Federal Regulations, part 710, to determine whether an individual has an illness or mental condition of a nature which causes, or may cause, a significant defect in judgment or reliability, or is alcohol dependent or suffering from alcohol abuse.

2. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system of records may be disclosed to a Federal agency in response to its written request, to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

5. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record . The member of Congress must provide a copy of the constituent's request for assistance.

6. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements.

7. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record may be stored as paper records, microfiche, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and assigned DOE file number (alpha-numeric code).

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Director, Office of Safeguards and Security, 19901 Germantown Road, Germantown, MD 20874–1290. Field Offices: The Manager of the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with DOE's Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as notification procedures above.

RECORD SOURCE CATEGORIES:

Documents completed and/or furnished by subject; Department of Energy; Office of Personnel Management; Federal Bureau of Investigation; Defense Security Service; medical professionals; and confidential sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt under subsection (k)(1), (k)(2), and (k)(5) of the Privacy Act to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1) of the Act. See the Department's Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008.

DOE–44

SYSTEM NAME:

Special Access Authorization for Categories of Classified Information.

SECURITY CLASSIFICATION:

Classified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 19901 Germantown Road, Germantown, MD 20874–1290

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Amarillo Area Office, Highway 60 FM2373, Amarillo, TX 79120

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Kansas City Area Office, 2000 E 95th Street, Kansas City, MO 64131–3095

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Sandia National Laboratories, 7011 E Avenue, Albuquerque, NM 87123

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Department of Energy (DOE) employees, current and former DOE contractor employees, and employees of other Federal agencies authorized access to special categories of classified information and compartmentalized DOE facilities and/or areas.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals, social security numbers, letters and memoranda, and status reports relating to authorized access to special categories of classified information and compartmentalized DOE facilities and/or areas.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101; 50 U.S.C. 2401; 5 U.S.C. 301; Atomic Energy Act of 1954, as amended; Department of Energy Organization Act, including authorities incorporated by reference in Title of the Department of Energy Organization Act; DOE M 471.2–4, Executive Order 12333; Executive Order 12968; Federal Personnel Manual, Chapters 731 and 736.

PURPOSE(S):

The records are maintained and used by DOE to verify individuals who are authorized access to special categories of classified information and compartmentalized DOE facilities and or areas.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to DOE contractors in performance of their

contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

2. A record from this system may be disclosed as a routine use to other federal agencies or departments for determining individuals who have access to classified information generated by these agencies.

3. A record from this system may disclosed as a routine use to the appropriate local, State or Federal agency in the event that a record within this system of records, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal or regulatory in nature, and whether arising by general statute of particular program pursuant thereto.

4. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving a constituent when the constituent has requested assistance from the member of Congress with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record may be stored as paper records, microfiche, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records and microfiche are maintained in locked General Services Administration approved security containers. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are locked in General Services Administration approved security containers. Access is limited to those whose official duties require access to the records on a strict need-to-know basis.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Office of Security Affairs, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

Field Offices: The Managers of the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with DOE's Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, present and former DOE employees and contractor employees; publicly available material; other agencies within the Intelligence Community; other offices and elements within DOE; and other federal agencies and official records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt under subsection (k)(1) of the Privacy Act to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), and (e)(1) of the Act. See the Department's Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008.

DOE–45

SYSTEM NAME:

Weapon Data Access Control System (WDACS).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Headquarters: U.S. Department of Energy, Defense Programs, Deputy Associate Deputy Assistant Secretary for Technical and Environmental Support, Germantown Road, Germantown, MD 20874–1290.

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87185–5400

U.S. Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120–0030

U.S. Department of Energy, Kansas City Area Office, P.O. Box 410202, Kansas City, MO 64141–0202

U.S. Department of Energy, Miamisburg Area Office, P.O. Box 66, Miamisburg, OH 45342–0066

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Pinellas Area Office, P.O. Box 2900, Largo, FL 34649

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Office of Scientific and Technical Information, P.O. Box 62, Oak Ridge, TN 37831

U.S. Department of Energy, Rocky Flats Field Office, P.O. Box 928, Golden, CO 80402–0928

U.S. Department of Energy, Sandia National Laboratories, Albuquerque, P.O. Box 5800, Albuquerque, NM 87185–5800

U.S. Department of Energy, Sandia National Laboratories, P.O. Box 969, Livermore, CA 94551–0969

U.S. Department of Energy, Sandia National Laboratories, Tonopah Test Range, P.O. Box 871, Tonopah, NV 89049.

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29808

U.S. Department of Energy, University of California, Lawrence Livermore National Laboratory, 7000 East Avenue, P.O. Box 808, Livermore, CA 94550

U.S. Department of Energy, University of California, Los Alamos National Laboratory, P.O. Box 1663, Los Alamos, NM 87545

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE), Department of Defense (DOD), and other Government agency employees,

contractors, and consultants requiring access to classified weapons information and/or DOE nuclear weapons program facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number, date of birth, citizenship, employer, type of clearance, number and date of clearance, categories of information requested and authorized, locations to be visited and dates of visit, purpose of visit, point of contact, Government agency certifying need-to-know, and classified mail/shipping addresses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained by the Department to document all persons who have been authorized access to nuclear weapon information through a visit to one of the DOE Nuclear Weapons Complex facilities or to receive classified data via a classified mail/shipping channel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as microfiche, paper records, electronic media.

RETRIEVABILITY:

Records may be retrieved by social security number, and name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Office of Defense Programs, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874.

Field Offices: The Managers and Directors of the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U. S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The individuals, DOE, DOD, and other Government agencies, and their contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–46

SYSTEM NAME:

Administrative Review Files.

SECURITY CLASSIFICATION:

The contents of Administrative Review Files are unclassified and classified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 19901 Germantown Road, Germantown, MD 20874–1290

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 1230–1069

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals processed for or granted DOE access authorization who are subsequently processed under 10 CFR part 710 for denial or revocation of access authorization; applicants for employment; employees including assignees and detailees; agents, and consultants with the DOE; DOE contractors and subcontractors at any tier; and DOE access permittees processed for DOE access authorizations for access to classified matter or special nuclear materials; other agency Federal, contractor, and subcontractor at any tier; applicants for employment, employees (including assignees and detailees), agents, and consultants processed for DOE access authorization; other individuals as processed for DOE access authorization as determined by the Secretary.

CATEGORIES OF RECORDS IN THE SYSTEM:

Transcript of the hearing convened under 10 CFR part 710 procedures (when an individual does not avail himself/herself of the right to a hearing under 10 CFR part 710 procedures, his/her DOE Personnel Security File (see DOE–43, Personnel Security File) becomes the basis of the administrative record); exhibits submitted by the DOE and the respondent to the Hearing Officer for inclusion in the administrative record; the Hearing Officer's opinion; decisions rendered by the Manager, Director of Safeguards and

Security, and/or the Appeal Panel; evidence submitted by the DOE or the respondent subsequent to the closing of the administrative record; correspondence to and from the individual (and his/her counsel or representative) related to the conduct of proceedings; intra-agency correspondence related to the conduct of proceedings; and information concerning reconsideration of the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 10 CFR part 710, subparts A and B; Executive Order 12968; and DOE O 472.1B, PERSONNEL SECURITY ACTIVITIES, of 3–24–97, and Personnel Security Program Manual DOE M 472–1.1 of 5–22–98.

PURPOSE(S):

The records are maintained and used by the Department to maintain an official administrative record of 10 CFR part 710 proceedings that are conducted to determine an individual's DOE access authorization eligibility.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. A record from this system may be disclosed to competent medical authority who, under a formal agreement for payment of services with the local DOE personnel security element, conducts evaluations under Title 10, Code of Federal Regulations, part 710, to determine whether an individual has an illness or mental condition of a nature that causes, or may cause, a significant defect in judgment or reliability, or is alcohol dependent or suffering from alcohol abuse.

2. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

5. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

6. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements

7. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES OR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, audio tape, video tape, microfiche and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and assigned DOE file number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Director, Office of Safeguards and Security, 19901 Germantown Road, Germantown, MD 20874–1290.

Field Offices: The Managers of the ''System location(s)'' listed above are the system managers for their respective portions of the system.

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with DOE's Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedures'' above.

RECORD SOURCE CATEGORIES:

The individual's Personnel Security File, and DOE staff.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt under subsections (k)(1), (k)(2), and (k)(5) of the Privacy Act, to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1) of the Act; see the Department's Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008.

DOE–48

SYSTEM NAME:

Security Education and/or Infraction Reports.

SECURITY CLASSIFICATION:

Classified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 19901 Germantown Road, Germantown, MD 20874–1290

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Amarillo Area Office, Highway 60 FM2373, Amarillo, TX 79120

U.S. Department of Energy, Carlsbad Area Office, 4021 National Parks Highway, Carlsbad, NM 88220

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Kansas City Area Office, 2000 E. 95th Street, Kansas City, MO 64131–3095

U.S. Department of Energy, Kirtland Area Office, Pennsylvania & H Street, Albuquerque, NM 87185–5400

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, GO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors, P.O. Box 1069, Schenectady, NY 12301

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE) employees and DOE contractor employees possessing DOE access authorizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of security education briefings, and investigative and summary reports of security infraction incidents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the Department to inform individuals of their responsibilities for protecting classified matter, and the procedures established by the Department to ensure authorized disclosure.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency, in response to its written request, to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper files and electronic media.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of Safeguards and Security, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20545. Field Offices: The Managers and Directors of the ''System locations'' above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Training officers, security personnel, individual's supervisor, and local, state, and Federal authorities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–49

SYSTEM NAME:

Security Communications File.

SECURITY CLASSIFICATION:

Classified and Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who transmits correspondence of any kind and by any medium which threatens any DOE official, DOE employee, DOE contractor employee. It also includes the names of any individual who threatens to destroy or damage DOE facilities and/or property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Threat communications received from individuals as well as individuals who have been identified from articles in the news media as being potential threats to DOE officials, DOE employees and DOE contractor employees. Also includes profiles and informational reports on any of the individuals who may have made threats against DOE personnel or property.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*, 50 U.S.C. 2401 *et seq.*, and the implementing directive of E.O. 12958.

PURPOSE(S):

The records are maintained and used by DOE to maintain a database and profiles of all individuals who have made threats of any kind, and through any medium, against DOE officials, DOE employees, DOE contractor employees, DOE facilities and/or DOE buildings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to the appropriate local, State or Federal agency when that record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

2. A record from the system may be disclosed as a routine use to a Federal, state or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

5. A record from the system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfiche, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, social security number, date of birth, and other miscellaneous personal identifiers.

SAFEGUARDS:

Paper records are maintained in locked General Services Administration approved security containers. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records on a strict need-to-know basis and other law enforcement authorities, as applicable.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE records schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Director, Office of Security Affairs, 1000

Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, complainants, witnesses, agency files and records, official federal, state, or local records, and publicly available material.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt under subsections (k)(1), (k)(2), and (k)(5) of the Privacy Act, to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1) of the Act; see the Department's Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008.

DOE–50

SYSTEM NAME:

Personnel Assurance Program (PAP) Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87115–5400

U.S. Department of Energy, Amarillo Area Office, Pantex Plant, P.O. Box 30030, Amarillo, TX 79120

U.S. Department of Energy, Kirtland Area Office, AL, P.O. Box 5400, Albuquerque, NM 87158–5400;

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544;

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518;

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE) or contractor employees performing work that affords both technical knowledge and access to assembled nuclear explosives or certain nuclear weapon components.

CATEGORIES OF RECORDS IN THE SYSTEM:

Results of medical examination; employment review; credit/consumer reports; data pertaining to access authorizations (clearances); training records pertaining to individuals' duties involving assembled nuclear explosives or certain nuclear weapon components; employee name; department division; job title; L-code (mail code); telephone number; pager number employee number; and social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Executive Orders 10450, 10865, and 12356; and 10 CFR part 711, Personnel Assurance Program.

PURPOSE(S):

The records are maintained and used by the Department to ensure that individuals assigned to nuclear explosive duties do not have emotional, mental, or physical incapacities that could result in a threat to nuclear explosive safety. The PAP establishes the requirements and responsibilities for screening, selecting, and continuously evaluating employees assigned to or being considered for assignment to nuclear explosive duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency, in response to its written request, to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information,

indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements

8. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper files and electronic media.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Office of Weapons Surety, 19901 Germantown Road, Germantown, MD 20874–1290.

Field Offices: The Managers and Directors of the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Medical records, occupational training records, and personnel security records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–51

SYSTEM NAME:

Employee and Visitor Access Control Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 19901 Germantown Road, Germantown, MD 20874–1290

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Amarillo Area Office, Highway 60 FM2373, Amarillo, TX 79177

U.S. Department of Energy, Carlsbad Area Office, 4021 National Parks Highway, Carlsbad, NM 88220

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Kansas City Area Office, 2000 E. 95th Street, Kansas City, MO 64131–3095

U.S. Department of Energy, Kirtland Area Office, Pennsylvania & H Street, Albuquerque, NM 87185–5400

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, GO 80401

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors, P.O. Box 1069, Schenectady, NY 1230–1069

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE) employees, DOE contractor employees and other individuals seeking access to DOE facilities and classified records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of individuals visiting DOE facilities, employees identification files, and photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the Department to track and control individuals accessing Departmental facilities and classified information areas.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

2. A record from this system of records may be disclosed to a member

of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

3. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. Records from this system may be disclosed to Department of Defense contractors and National Aeronautics and Space Administration to authorize access to classified information and areas.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper files and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of Safeguards and Security, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20545.

Field Offices: The Managers and Directors of the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individual, Department of Defense, DOE offices and contractors, National Aeronautics and Space Administration, and other Government agencies.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–52

SYSTEM NAME:

Access Control Records of International Visits, Assignments, and Employment at DOE facilities and Contractor Sites.

SECURITY CLASSIFICATION:

Classified and Unclassified.

SYSTEM LOCATION:

The centralized data system is located at Los Alamos National Laboratories.

U.S. Department of Energy, Headquarters, Office of Security and Emergency Operations, Office of Foreign Visits and Assignments, 1000 Independence Avenue, Washington DC 20585

U.S. Department of Energy, Albany Research Center 1450 Queen Avenue, SW., Albany, OR 97321

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Amarillo Area Office, Highway 60 FM 2373, Amarillo, TX 79120

U.S. Department of Energy, Ames Laboratory, 311 Tasf, Iowa State University, Ames, IO 50011

U.S. Department of Energy, Argonne Area Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Argonne National Laboratory-East, 9700 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Batavia Area Office, Kirk Road & Pine Street, Batavia, IL 60510

U.S. Department of Energy, Bonneville Power Administration, 1520 Kelley Place, Walla Walla, WA, 99362

U.S. Department of Energy, Brookhaven National Laboratory, P.O. Box 5000, Upton, NY 11973–5000

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Dayton Area Office, Dayton, OH, 45343

U.S. Department of Energy, Environmental Measurements Laboratory, 201 Varick Street, 5th Floor, New York, NY, 10014–4811

U.S. Department of Energy, Fernald Field Office, 7400 Willey Road, Cincinnati, OH 45030

U.S. Department of Energy, FERMI Laboratory, Kirk Road and Pine Street, Batavia, IL 60510

U.S. Department of Energy, Grand Junction Project Office 2597 ¾th Road, Grand Junction, CO 81503

U.S. Department of Energy, General Atomics, P.O. Box 85608, San Diego, CA 92186

U.S. Department of Energy, Hanford Environmental Health Foundation, 3080 George Washington Way, Richland, WA, 99352

U.S. Department of Energy, Idaho National Engineering Laboratory, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy Kansas City Area Office, 2000 E. 95th Street, Kansas City, MO 64131–3095

U.S. Department of Energy, Kirtland Area Office, Pennsylvania & H Street, Albuquerque, NM

U.S. Department of Energy, Lawrence Berkeley Laboratory, 1 Cyclotron Road Berkeley, CA 94720

U.S. Department of Energy, Lawrence Livermore National Laboratory, 700 East Avenue, P.O. Box 808, L–1, Livermore, CA 94551

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, Los Alamos National Laboratory, University

of California, SM #30 Bikini Road, Los Alamos, NM 87545

U.S. Department of Energy, Miamisburg Area Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, National Energy Technology Center (Pittsburgh), P.O. Box 10940, Pittsburgh. PA 15236

U.S. Department of Energy National Petroleum Technology Office, William Center Tower One 1, West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, National Renewable Energy Laboratory Area Office, 1617 Cole Blvd., Golden, CO 80401

U.S. Department of Energy, Oak Ridge National Laboratory, Bethel Valley Road, Oak Ridge, TN, 37831

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Pacific Northwest National Laboratory, 902 Battelle Boulevard P.O. Box 999, Richland, WA 99352

U.S. Department of Energy, Princeton Area Office, P.O. Box 102, Princeton, NJ 08542

U.S. Department of Energy, Princeton Plasma Physics Laboratory, Princeton University, P.O. Box 451, Princeton, NJ 08543

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Sandia National Laboratories, Eubank Street SE, Albuquerque, NM 87185–5800

U.S. Department of Energy, Sandia National Laboratories, Livermore, 7011 East Avenue, Livermore, CA 94551–0969

U.S. Department of Energy, Savannah River Ecology Laboratory, Drawer E Aiken, SC 29802

U.S. Department of Energy, Savannah River Technology Center, Drawer E, Aiken, SC 29802

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Scientific and Technical Information, 175 Oak Ridge Turnpike, Oak Ridge, TN 37830

U.S. Department of Energy, Stanford Linear Accelerator Center, 2575 Sand Hill Road, Menlo Park, CA 94205

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East New Orleans, LA 70123

U.S. Department of Energy, Thomas Jefferson National Accelerator Facility 12000 Jefferson Avenue, Newport News, VA 23606

U.S. Department of Energy, University of Rochester, 250 East River Road, Rochester, NY 14623

U.S. Department of Energy, Waste Isolation Pilot Plant, 370 Wipp Road, Carlsbad, NM

U.S. Department of Energy, West Valley Project Office, P.O. Box 191, West Valley, NY 14171

U.S. Department of Energy, Western Area Power Administration 12155 W. Alamino Parkway, Lakewood, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All non-U.S. citizens seeking access to DOE facilities, laboratories, contractor sites, or Department of Energy (DOE) sponsored events for unclassified purposes to include employees of DOE or DOE contractors; prospective DOE or DOE contractor employees; employees of other U.S. Government agencies or their contractors of universities, of companies (professional or service staff), or of other institutions; foreign students at US. institutions; officials or other persons employed by foreign governments or other foreign institutions who may or may not be involved in cooperation under international agreements; permanent resident aliens; representatives or agents of foreign national governments seeking access to DOE facilities, laboratories, or contractor sites or DOE-sponsored events for purposes of high-level protocol; national security; International Atomic Energy Agency, or international relations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal data: Full name (including Also Known As (AKA's), visitor request number, gender, place of birth, city and country, date of birth, country(ies) of citizenship, date of last visit to country of citizenship, passport number and passport, expiration date, immigration status, type of visa and expiration date, country of current residence and how long at current residence, language interpretation needs, work phone, e-mail and fax, name of current employer, place of work, street, city, state, zip code, country; position title or description of requesters duties. Visit/Assignment Request Information: Date of request, purpose of request (including subjects to be discussed or researched and specific activities involved); requesters current whereabouts, (i.e., is proposed visitor currently in the US), specific visa status and purpose, (i.e., exchange visitor (J–1) Visa), time duration of proposed visit, assignment or activity (desired start and end dates), identification of specific international agreement(s) or delegations related to the proposed request, name, organization, telephone number of DOE contact, name of financial Sponsor, cost if sponsor is other than DOE. Visit/Assignment Facility Information: Name, location and room number of facility or organization to be accessed during visit/assignment, name of the host responsible for the visit/assignment, Host's telephone number, building and room numbers, number of days on site, visit assignment relationship to program, subject codes, subjects to be discussed or statement of research, determination of computer access, and sensitive subject designation. Visit/Assignment Program Information and Remark: Designation of high level protocol visit, cost to DOE, visit or assignment purpose code, purpose and justification of visit assignment including benefits to DOE program(s) and certification of DOE mission advancement, technology transfer determination, name of requesting official or contractor, title and organization of requesting officer, signature of requesting official or contractor, date signed, name of site manager and local headquarters approving official, title and organization of local headquarters approving official, signature(s) of site field, headquarters approving official, date signed and remarks, the kind of business or organization of assignee's employer (e.g. government, company, Laboratory, university), education background of requestor including college or university training with degrees and dates conferred; field of research, and family members who will accompany or join the applicant later.) Management Reviews and Approvals: Level, type or topic of review, name of reviewer and or approval authority(ies), the date of the review approval, and remarks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

Records are maintained and used by the Department to document, track, manage, analyze, and or report on foreign visit and assignment access to

DOE facilities including Headquarters, Field Offices, National Laboratories, and Contractor Sites.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A records from this system may be disclosed as a routine use to Department of Defense contractors responsible for security controlling access to sensitive information and sensitive equipment, and sensitive property areas.

2. A record from this system may be disclosed as a routine use to contractors, grantees, participants in cooperative agreements, collaborating researchers, or their employees, in performance of national security, international visit and assignment, or foreign access related responsibilities.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements.

8. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

9. A record from this system of records may be disclosed as a routine use to members of the DOE Advisory committees and interagency boards charged with responsibilities pertaining to international visits and assignments and/or national security.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfiche, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and other personal identifiers.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Headquarters, Office of Security and Emergency Operations, Director, Office of Foreign Visits and Assignments, 1000 Independence Avenue, Washington DC 20585.

Field Offices: The Managers and Directors of the ''System locations'' listed above are system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Foreign national individuals requesting access to DOE facilities including contractor sites, reports from federal investigation agencies, DOE Office of Counterintelligence, Department of State, Department of Defense, and Immigration and Naturalization Service.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–53

SYSTEM NAME:

Access Authorization for ADP Equipment.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, Energy Information Administration, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Users of the Energy Information Administration computer system, including DOE employees and contractor employees (including employees and contractor employees of the Federal Energy Regulatory Commission), and other authorized users of the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, user identification number, office address and telephone number, organizational code, computer usage figures, data accessed, and other management-related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; OMB Circular A–71; Department of Commerce Federal Information Processing Standards Publications (FIPS PUBS) on computer security; GSA Procurement Regulations Amendment 155, adding Section 1–1.327.

PURPOSE(S):

The records are maintained and used by the Department to monitor and control the computer usage and to ensure that only authorized users have access to the computer system. The information is frequently reviewed and updated to ensure records are current and accurate.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as electronic media.

RETRIEVABILITY:

Records may be retrieved by name, and user identification number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Energy Information Administration, U.S. Department of Energy 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individual, with some information assigned by the ITG Staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–54

SYSTEM NAME:

Investigation Files of the Office of Inspector General (OIG).

SYSTEM CLASSIFICATION:

Unclassified and classified.

SYSTEM LOCATION:

U.S. Department of Energy, Office of Inspector General, Headquarters, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects of an investigation, witnesses in an investigation, sources of investigative information, investigative personnel, and other individuals involved in an Office of Inspector General investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Criminal, civil, and administrative investigative records and files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; The Inspector General Act of 1978, as amended, 5 U.S.C. App. 3.

PURPOSE(S):

The records are maintained and used by the Department in furtherance of the responsibilities of the Inspector General. These responsibilities include conducting and supervising investigations relating to Departmental programs and operations; promoting economy, efficiency, and effectiveness in the administration of such programs and operations, and preventing and detecting fraud and abuse in such programs and operations. The records are used in investigations of individuals and entities suspected of having committed illegal or unethical acts. The records also are used in any resulting criminal prosecutions, civil proceedings, or administrative actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND PURPOSES OF SUCH USES:

Pursuant to the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, the information contained in the investigative files is collected and maintained in carrying out the duties and responsibilities of the Inspector General to investigate, prevent and detect fraud and abuse in departmental programs and operations. Material gathered is used for prosecuting civil or administrative actions.

The Inspector General Act of 1978 further states that ''the Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.'' This provision will be applied to any release of investigation information.

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain

information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) a current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency, in response to its written request, to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements

8. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper and electronic media.

RETRIEVABILITY:

Records may be retrieved by name of subject(s), case number, title of investigative report, name of complainant, name of subject(s), and names of witnesses.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected known only to the system manager. Classified information is maintained in locked General Services Administration approved class 6 security containers. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations U.S. Department of Energy 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above.

RECORD SOURCE CATEGORIES:

Subject individuals; individuals and organizations that have pertinent knowledge about the subject; those authorized by the individual to furnish information; confidential informants; the Department of Justice; Federal Bureau of Investigation (FBI); and other Federal, State, and local agencies.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt under (j)(2) of the Privacy Act to the extent that the information within the system meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections: (c)(3) and (4), (d)(1), (2), (3), and (4), (e)(1), (2), and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) of the Act; see the Department's Privacy Act regulation at Title 10, Code of Federal Regulations part 1008.

This system is exempt under (k)(1), (k)(2), and (k)(5) of the Privacy Act, to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1), (e)(4)(G), (H) and (f) of the Act; See the Department's Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008.

DOE–55

SYSTEM NAME:

Freedom of Information and Privacy Act (FOIA/PA) Requests for Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy (Headquarters), 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87115

U.S. Department of Energy, Brookhaven National Laboratory, Industrial Medicine Division, Upton, NY 11973

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Grand Forks Energy Technology Center, P.O. Box 8213, University Station, Grand Forks, ND 58201

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), 3610 Collins Ferry Road, Morgantown, WV 26507–0940

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U.S. Department of Energy, Ohio Field Office, 1 mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals requesting copies of records from Department of Energy (DOE) under the provisions of the FOIA and the Privacy Act (PA) of 1974.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, and telephone number; description or identification of records requested, furnished and/or denied; FOIA and PA division employee assigned responsibility for processing request; dates of request and actions; interim and final actions taken on request; persons or offices assigned actions on requests; copy of records requested, furnished and/or denied; fee data, including payment delinquencies; final determinations of appeals; name/title of officials responsible for denial of records; and case notes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Freedom of Information Act 5 U.S.C. 552, and the Privacy Act of 1974, 5 U.S.C. 552a.

PURPOSE(S):

The records are used and maintained by the Department to record, control, and determine the status of FOIA and PA requests; produce statistical reports; and as a data source for management information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. A record from this system of records may be disclosed to another Federal agency when consultation or referral is required to process requests.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

4. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper, microfiche, video, audio, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name of requester and assigned request control number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Freedom of Information and Privacy Act Officers of the ''Systems locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Individuals requesting copies of records and individuals responsible for processing and/or making determination on requests.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–56

SYSTEM NAME:

Congressional Constituent Inquiries.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy (Headquarters), 1000 Independence Avenue, SW., Washington, DC 20585; U.S. Department of Energy

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87115

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Brookhaven National Laboratory, Industrial Medicine Division, Upton, NY 11973

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122;

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, 700 N, Oakland, CA 94612–5208

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested assistance from their Congressional Representative, and the member of Congress who corresponded with the Department on behalf of the constituent.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of constituent and date of letter by a Member of Congress on behalf of the constituent; materials forwarded by a member of Congress; and DOE response.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the Department to record Congressional inquiries on behalf of constituents, to ensure proper document control of the response, and to record the Department's responses to such inquiries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to another Federal agency when consultation or referral is required to process requests.

2. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

3. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United

States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

4. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

5. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic records.

RETRIEVABILITY:

Records may be retrieved by name of constituent and name of member of Congress.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Executive Secretariat, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

Field: The Managers or Directors of the ''System location(s)'' listed above are the system managers for their respective portions of the system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individual, member of Congress, and the author of the DOE response.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–57

SYSTEM NAME:

Congressional Profiles.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87115

U.S. Department of Energy, Bartlesville Energy Technology Center, P.O. Box 1398, Bartlesville, OK 74003

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Grand Forks Energy Technology Center, P.O. Box 8213, University Station, Grand Forks, ND 58201

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U. S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland CA 94162–5208

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden CO 80403–8200

U.S. Department of Energy, Oakland Operations Office, 1333 Broadway, Oakland, CA 94612

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current Members of Congress.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, picture from Congressional Yellow Book, personal background

obtained from published sources, demographic information by state or district, committee assignments, and information about energy interests obtained from published sources, information from member's office, abstracts from Congressional Record, committee hearings and other public sources.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

PURPOSE(S):

The information is maintained and used by the Department to maintain biographical data on all members of Congress, including a list of their sensitive energy issues or energy related legislation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office Congressional and Intergovernmental Affairs, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Published sources, committee hearings, and the members' offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–58

SYSTEM NAME:

General Correspondence Files of the Office of the Secretary, Deputy Secretary and Under Secretary of Energy.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy (Headquarters), 1000 Independence Avenue, SW., Washington, DC 20585

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of Congress, representatives of organizations, and other federal and state agencies and the general public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address of correspondent, and copies of the agency response. This is the portion of the Department of Energy (DOE) correspondence files that relates to correspondence with individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE:

The records are maintained and used by the Department to document and manage information from or to correspondents outside of DOE and to ensure proper document control of the DOE response.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a

copy of the constituent's request for assistance.

4. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Executive Secretariat, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field: The Managers and Directors of the ''System locations'' listed above are the system managers for their respective portions of the system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with DOE's Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individuals and drafter of DOE response.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–59

SYSTEM NAME:

Mailing Lists for Requesters of Energy Related Information.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATIONS:

DOE Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons requesting energy related information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of the subject individual; some mailing lists may also indicate specific interests of or publications requested by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

PURPOSE(S):

The system is maintained and used by the Department to distribute DOE related material to DOE employees, DOE contractors, and others requesting information from DOE.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfiche and electronic media.

RETRIEVABILITY:

Records may be retrieved by record identification and code number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Director, Print Media and Mail Services Group, Washington DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with DOE's Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, generally as the result of a request for information by that individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–61

SYSTEM NAME:

Census of High Energy Physicists.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Office of Science, 19901 Germantown Road, Germantown, Maryland 20874–1290.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Scientists and graduate students in the field of high energy physics.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, education, employment history, research activities, and technical specialties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The information is maintained and used by the Department to provide a database for statistical and demographic studies of the high energy physics research community.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to physicists, research organizations, and various Government organizations engaged in supporting physics research to obtain information for statistical and demographic purposes, on individuals and institutions engaged in high energy physics research.

2. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as electronic media.

RETRIEVABILITY:

Records may be retrieved by name of individual.

SAFEGUARDS:

Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for High Energy and Nuclear Physics, U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–62

SYSTEM NAME:

Historical Files—Published Information Concerning Selected Persons in the Energy Field.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, History Division, Office of the Executive Secretariat, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Selected senior staff officials of the Manhattan Project, Atomic Energy Commission, Nuclear Regulatory Commission, Energy Research and Development Administration, DOE, and other selected individuals prominent in the energy field.

CATEGORIES OF RECORDS IN THE SYSTEM:

Newspaper and magazine articles, press releases, announcements, and speeches.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The information is maintained and used by the Department to record, historical records of the DOE and predecessor agencies, including the Atomic Energy Commission, Federal Energy Administration, and the Energy Research and Development Administration. Records are used to prepare histories in responding to informational inquiries from DOE officials and members of the public.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to members of the public and the media when responding to requests for information.

2. A record from the system may be disclosed as a routine use to another Federal agency when consultation or referral is required to process requests.

3. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Historian, History Division, Office of the Executive Secretariat, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

DOE press releases, DOE News Clips (a daily compilation of energy related newspaper and magazine articles), and other published sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–66

SYSTEM NAME:

Power Sales to Individuals.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Western Area Power Administration, 1800 South Rio Grand, Montrose, CO 81401

U.S. Department of Energy, Colorado River Storage Region, 257 E200S, Suite 475, Salt Lake City, UT 84111

U.S. Department of Energy, Desert Southwest Region, 615 S. 43rd Avenue, Phoenix, AZ 85009

U.S. Department of Energy, Rocky Mountain Region, 5555 E. Crossroads Boulevard, Loveland, CO 80538–8986

U.S. Department of Energy, Sierra Nevada Region, 114 Parkshore Drive, Folsom, CA 95630–4710

U.S. Department of Energy, Upper Great Plains Region, 2900 4th Avenue North, Billings, MT 59101–1266

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals purchasing power from the Western Area Power Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Executed contracts, agreements, amendments, extensions, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the Department to bill individuals for sale of purchase power.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record, alone or in conjunction with other information, indicates a violation or potential

violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Western Area Power Administration, U.S. Department of Energy, P.O. Box 3402, Golden, CO 80401.

Regional Offices: The Managers and Directors of the ''System locations'' listed above are the system managers for their respective locations.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–71

SYSTEM NAME:

The Radiation Accident Registry.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those persons accidentally exposed to acute dose of ionizing radiation as defined by exposure dose criteria agreed to by the Department of Energy (DOE) and the Nuclear Regulatory Commission (NRC) by an interagency agreement. The dose criteria established by this agreement include one or more of the following: Greater than or equal to 25 REM (Roentgen Equivalent in Man) to the whole body, active blood forming organs or gonads; greater than or equal to 600 REM to skin of the whole body or extremities; greater than or equal to 75 REM to other tissues or organs from an external source; and greater than or equal to ½ NCRP maximum permissible organ burden internally; all those medical administrations of radioisotopes that result in a dose or organ burden equal to or greater than those given above.

CATEGORIES OF RECORDS IN THE SYSTEM:

Official accident reports including reports of those accidents that have occurred within the jurisdiction of the NRC and have been transferred to the DOE for the Accident Registry according to the DOE/NRC agreement; names, addresses, social security numbers, date of birth, and sex; medical records compiled at the time of the accident (such records include physician and hospital records, diagnostic and laboratory test reports, radiographs, EKGs, and radiation exposure report); medical records of illnesses, examinations, including routine follow-up examinations, and investigations that have occurred since the radiation exposure; photographs or facsimiles of radiation-induced injuries; search and contact information for registrants not identified and/or located; consent to release information forms completed by registrants; death certificates; anecdotal information; and correspondence relating to the accident and/or the individuals involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; DOE Order 5500.2B, Emergency Categories, Classes, and Notification and Reporting Requirements, April 30, 1991; 42 U.S.C. 7274i. Program to monitor Department of Energy workers exposed to hazardous and radioactive substances.

PURPOSE(S):

The information is maintained and used by the Department to provide a current record of radiation accidents; to identify specific populations for use in epidemiological and clinical studies; and to conduct medical surveillance during the lifetime of the registrants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

2. A record from this system of records may be disclosed to contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health and the National Center for Environmental Health of the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry to facilitate health hazard evaluations, epidemiological studies, or public health activities required by law pursuant to a

Memoranda of Understanding between the Department and the Department of Health and Human Services or its components. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

3. A record from this system of records may be disclosed as a routine use to DOE contractors, grantees, participants in cooperative agreements, and collaborating researchers, or the employees of these parties, in performance of health studies or related health or environmental duties pursuant to their contracts, grants, and cooperating or collaborating research agreements; federal, state and local health and medical agencies or authorities; to subcontractors in order to determine a subject' s vital status or cause of death; to health care providers to verify a diagnosis or cause of death; or to third parties to obtain current addresses for participants in health-related studies, surveys and surveillances. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. A record from this system of records may be disclosed as a routine use to members of DOE advisory committees, the Department of Health and Human Services Advisory Committee on Projects Related to Department of Energy Facilities and to designated employees of federal, state, or local government or government-sponsored entities authorized to provide advice to the Department concerning health, safety, or environmental issues. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

5. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

6. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

7. A record from this system of records may be disclosed to foreign governments or international organizations, in accordance with treaties, international conventions, or executive agreements.

8. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public information on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected known only to the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

RECORD SOURCE CATEGORIES:

The individual, medical records, physicians, medical institutions, and reports of incident/accident/accident investigations from private and public sources, radiation dosimetry records, security clearance records, and employment records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–72

SYSTEM NAME:

The Department of Energy Radiation Study Registry.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former employees, Department of Energy (DOE) contractor employees, including employees of predecessor agencies and organizations, including the Manhattan District, U.S. Atomic Energy Commission, and Energy Research and Development Administration; and present and former civilian employees in the DOE Naval Reactor Program who received a whole body exposure of ionizing radiation equal to or in excess of 5 REM in any 1 year.

CATEGORIES OF RECORDS IN THE SYSTEM:

Rosters of names of individuals meeting the above criteria for inclusion in the Registry submitted through the DOE field operation officers from DOE owned and operated facilities and sites. In addition to names of such individuals, these rosters include social security number or other identifying information, sex, race, date of birth, date and/or place of death, first date of hire, last date of termination, continuity of hire, year in which they received first dose greater than or equal to 5 REM, actual radiation doses in excess of 5 REM, and total career radiation exposure dose.

Original or copied lifetime medical records from plant and private physicians and hospitals including routine physical examinations, reports of diagnostic and laboratory tests, radiographs, EKGs, etc., or abstracted portions of such records as are required for the purposes of this study.

Contact information for registrants who are no longer employed at qualified sites or who are deceased.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; DOE Order 5500.2B, Emergency Categories, Classes, and Notification and Reporting Requirements, April 30, 1991; 42 U.S.C. 7274i.

PURPOSE(S):

The information is maintained and used by the Department to identify specific populations for use in epidemiological and clinical studies; and to conduct medical surveillance during the lifetime of the registrants.

ROUTINE USES OF THE RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

2. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

3. A record from this system of records may be disclosed to contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health and the National Center for Environmental Health of the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry to facilitate health hazard evaluations, epidemiological studies, or public health activities required by law pursuant to a Memoranda of Understanding between the Department and the Department of Health and Human Services or its components. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. A record from this system of records may be disclosed as a routine use to members of DOE advisory committees, the Department of Health and Human Services Advisory Committee on Projects Related to Department of Energy Facilities and to designated employees of federal, state, or local government or government-sponsored entities authorized to provide advice to the Department concerning health, safety, or environmental issues. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

5. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

6. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

7. A record from this system of records may be disclosed as a routine use to the United States Enrichment Corporation and its contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties subject to the same limitations applicable to DOE officers and employees under the Privacy Act at the following sites: (1) Portsmouth Gaseous Diffusion Plant at Piketon, Ohio, and (2) Paducah Gaseous Diffusion Plant at Paducah, Kentucky.

8. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public

information on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF THE RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

RECORD SOURCE CATEGORIES:

The individual, medical records, physicians, medical institutions, and reports of incident/accident/accident investigations from private and public sources, radiation dosimetry records, security clearance records, and employment records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–73

SYSTEM NAME:

The US–DTPA Registry.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are or suspected of internal contamination with transuranic elements and have received diethylene triamine pentaacetic acid (DTPA) in the calcium or zinc form during the course of chelation therapy. Administration of the agent DTPA is limited to physicians who are co-investigators with the DOE contractor staff on the Investigative New Drug License of the Food and Drug Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records compiled by the physician administering DTPA in the event of an exposure that was known to have or was suspected of having caused transuranic contamination internally requiring chelation therapy with DTPA. These records include a description of the exposure, the results of serial bioassays and investigations conducted to evaluate the level of internal contamination and the efficacy of subsequent chelation by DTPA.

Name, social security numbers or other identifiers and vital status of treated persons. The name and address of the individual's last known private physicians are included in the DTPA Registry to facilitate the search and contact of individuals; medical records of illnesses, examinations, including routine follow-up examinations, and investigations that have occurred since the initial administration of DTPA; and death certificate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 42 U.S.C. 7274i.

PURPOSE(S):

The records are maintained and used by the Department to provide a current record of individuals treated with DTPA. To identify by epidemiological methods any long-term effects associated with DTPA therapy; and to provide information to Food and Drug Administration in accordance with the Investigative New Drug licenses and issuances, epidemiological and clinical studies; and to conduct medical surveillance during the lifetime of the registrants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING, CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

2. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

3. A record from this system of records may be disclosed to contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health and the National Center for Environmental Health of the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry to facilitate health hazard evaluations, epidemiological studies, or public health activities required by law pursuant to Memoranda of Understanding between the Department and the Department of Health and Human Services or its components. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. A record from this system of records may be disclosed as a routine use to members of DOE advisory

committees, the Department of Health and Human Services Advisory Committee on Projects Related to Department of Energy Facilities, and to designated employees of federal, state, or local government or government-sponsored entities authorized to provide advice to the Department concerning health, safety, or environmental issues. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

5. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

6. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

7. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public information on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

RECORD SOURCE CATEGORIES:

The individual, medical records, physicians, medical institutions, and reports of incident/accident/accident investigations from private and public sources, radiation dosimetry records, security clearance records, and employment records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–75

SYSTEM NAME:

Call Detail Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy (DOE) Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy (Headquarters), 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87115

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Brookhaven National Laboratory, Industrial Medicine Division, Upton, NY 11973

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive., Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Tulsa, OK 74103

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, 700 N, Oakland, CA 94612–5208

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of Department of Energy (DOE) and those employees of other Federal agencies and contractors who are located on the DOE premises and who have assigned station numbers in the on-premise telecommunications system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Originating and terminating call data records relating to use of DOE telephones, including calling station number; Date, time call originated, duration of call, and called number; directory records indicating assignment of telephone numbers to employees; and records relating to location of telephones. Reports may be generated from stored call detail records and may include, but are not limited to, station usage summaries, trunk usage summaries, traffic and network busy hour studies, on-net and off-net pricing, exception reports, bill certification, and cost allocation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The information is maintained and used by the Department to help manage and control the costs of operating the Department's telephone systems. To this end, the program will collect information about the use of the agency's telephone system for local, long distance, and other toll calls and may attempt to assign responsibility to individual person for particular calls. The information also assists the Department in choosing more efficient and cost effective ways of communicating; in making decisions about acquiring hardware, software, and services; and in developing management strategies for more efficient use of existing telecommunications capabilities. Other uses are to deter use of the telephone systems for unofficial purposes, and to recover the cost of unofficial calls.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to representatives of the General Services Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

2. A record from this system may be disclosed as a routine use to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act, 15 U.S.C. 2904 and 2906.

3. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

4. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

5. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

6. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

7. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

8. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

9. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements

10. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information

under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by individual telephone extension number.

SAFEGUARDS:

Paper and microfilm records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Headquarters Office of Information Management, Germantown, MD 20874

Field Offices: The Managers and Directors of the ''System locations'' listed above are the system managers for their respective locations.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Categories include telephone assignment records; call detail listings; results of administrative inquiries relating to assignment of responsibility for placement of special local and long-distance calls.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–77

SYSTEM NAME:

Physical Fitness Test Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, (Headquarters), 19901 Germantown Road, Germantown, MD 20874–1290

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87185–5400

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, ID 83402

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831–8501

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOE contractor employees (armed uniformed guards).

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of individual's ability to complete the physical fitness test as set forth in applicable DOE directives.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the Department to record physical fitness tests of Department of Energy (DOE) federal and contractor employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties,

witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Office of Safeguards and Security, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers and Directors of the ''System locations'' listed above are the system managers for their respective portions.

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

RECORD SOURCE CATEGORIES:

The subject individual, physicians, and persons administering the tests.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–81

SYSTEM NAME:

Counterintelligence Administrative and Analytical Records and Reports.

SECURITY CLASSIFICATION:

Classified and unclassified.

SYSTEM LOCATION:

U.S. Department of Energy (Headquarters), Office of Counterintelligence, 1000 Independence Avenue, SW., Washington, DC 20585;

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87115;

U.S. Department of Energy, Chicago Operations Office, 9800 Cass Ave., Argonne, IL 60439;

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401;

U.S. Department of Energy, Lawrence Livermore National Laboratory, P.O. Box 808, L–062, Livermore, CA 94551

U.S. Department of Energy, Lockheed Martin Idaho Technology, P.O. Box 1625, M/S 2800, Idaho Falls, ID 83415–2800

U.S. Department of Energy, Los Alamos National Laboratory, Mail Station 5000, P.O. Box 1663, Los Alamos National Laboratory, NM 87545

U.S. Department of Energy, Martin Lockheed Energy Systems, P.O. Box 2009, Oak Ridge, TN 37831–8107

U.S. Department of Energy, Mason & Hangar—Silar Mason, Co., Inc., Pantex Plant, Bldg 11–54, P.O. Box 30020, Amarillo, TX 79177

U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114;

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830;

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612

U.S. Department of Energy, Ohio Field Office. Mound Plant, P.O. Box 3000, OSE–4, Miamisburg, OH 45343

U.S. Department of Energy, Pacific Northwest Laboratory, 902 Battelle Blvd., P.O. Box 999, Richland, WA 99352

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352;

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 880403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801;

U.S. Department of Energy, Sandia National Laboratory, P.O. Box 969, M/S 9020, Livermore, CA 94551–0969

U.S. Department of Energy, Sandia National Laboratory, Org 7400, P.O. Box 5800, M/S 0173, Albuquerque, NM 87185

U.S. Department of Energy, Westinghouse Hanford Co., P.O. Box 1970, Richland, WA 99352

U.S. Department of Energy, Worldwide Security Service Ltd., Rocky Flats Environmental Technology Site, P.O. Box 464, T893B, Golden, CO 80402–0464

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Department of Energy (DOE) employees, contractor employees, and consultants; persons suspected of violating DOE regulations or laws; and, where there are indications of contact with a current or former DOE employee, contractor employee or consultant, persons who are reasonably believed to be officers or employees of, or otherwise acting for or on behalf of, a foreign power; members of an organization reasonably believed to be owned or controlled directly or indirectly by a foreign power; reasonably believed to be targets, hostages, or victims of international terrorist organizations; or reasonably believed to be engaged in or about to engage in clandestine intelligence activities, sabotage, assassinations, or international terrorist activities involving DOE programs, personnel, facilities, information or materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Analytical, training and investigative records, reports and files; travel reports; reports on foreign contacts; records, reports and files received from other DOE elements and other Federal agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Federal Personnel Manual, Chapters 731 and 736.

PURPOSE(S):

The information is maintained and used by the Department in furtherance of the responsibilities of the Office of Counterintelligence (OCI), which include analysis of the foreign intelligence threat; conducting administrative inquiries and investigations to identify and neutralize the foreign intelligence threat to classified and sensitive DOE programs, personnel, information and activities; reporting on foreign contacts and travel, including briefings and debriefings; conducting counterintelligence investigations and producing intelligence on hostile and foreign intelligence entities; counterintelligence related training; and other activities relating to OCI's responsibilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the Federal Bureau of Investigation when such records indicate a violation or probable violation of the law.

2. A record from this system may be disclosed as a routine use to other counterintelligence agency components with whom the Office of Counterintelligence is preparing joint analysis of counterintelligence-related threats which may impact the Department.

3. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

4. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

5. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

6. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

7. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

8. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

9. A record from this system of records may be disclosed to foreign governments or international organization in accordance with treaties, international conventions, or executive agreements

10. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, social security number or other personal identifying data.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Department of Energy, Office of Counterintelligence, Headquarters, Analytical Division, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers and Directors of the ''System locations'' listed above are the system managers for their respective portions.

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

RECORD SOURCE CATEGORIES

The subject individual; present and former DOE employees and contractor employees; publicly available material; other agencies within the Intelligence Community; other offices and elements within DOE; the FBI, and other federal, state and local law enforcement agencies; sources contacted during administrative inquiries and investigations; and official records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT

This system is exempt under (k)(1), (k)(2), and (k)(5) of the Privacy Act to the extent that information within the system meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), and (4), (d), and (e)(1) (e)(4)(G) and (H) and (f) of the Act; See the DOE Privacy Act regulation at Title10, Code of Federal Regulations, part 1008.

DOE–82

SYSTEM NAME:

Grant and Contract Records for Research Projects, Science Education, and Related Activities.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Science, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Applicant/Grantee organization; Principal Investigator, i.e., the scientist or other individual designated by the applicant or proposer to direct the project; Senior Personnel, i.e., scientists or other individuals designated by the applicant or proposer to perform work on the project; Certifying Representative, i.e., the business representative having the authority to accept the obligation to comply with Department of Energy (DOE) terms and conditions if DOE makes a grant or contract award. (2) DOE officials DOE Project Officer, i.e., the individual who is responsible for the review and evaluation of the application or proposal and the monitoring of a resulting grant or contract; DOE Program Official, i.e., the individual who is responsible for review and approval of applications or proposals for funding; DOE Budget Official, i.e., the individual who is responsible for certifying funds availability for approved applications or proposals; DOE Contracting Officer or Contract Specialist, i.e., individuals who are responsible for awarding and administering grants or contracts. (3) Merit/Peer Reviewer, i.e., the individual (Federal or non-Federal) who provides a written review or evaluation of the application or proposal to the DOE Project Officer.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grant applications, contract proposals, technical reviews by peer reviewer, records of grant and contract awards, financial data, and any other pertinent information needed for the tracking or approval of a grant or contract.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The information is maintained and used by the Department to track and monitor the receipt, review, and disposition of grant applications and contract proposals from universities, non-profit organizations, large and small businesses, other Federal agencies, State and local governments, individuals, and DOE national laboratories seeking Federal financial support for research projects, training, and related activities. The system also tracks and monitors funding authorizations and associated financial data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to expert peer reviewers selected by DOE for their expertise in specific research areas to evaluate the application or proposal in accordance with established evaluation criteria.

2. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

3. A record from the system may be disclosed as a routine use to DOE

contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. A record from this system may be disclosed as a routine use to an applicant's principal investigator, sponsored programs office, business office, or similar element, via electronic media for the purpose of checking the status of its grant applications or contract proposals which have been submitted to DOE for support. Safeguards will be employed on a case by case basis to allow access only to authorized persons having a need to know.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by application or proposal number, project number, award number, name of applicant or awardee, name of principal investigator, social security number, name of peer reviewer, DOE project officer, or budget and reporting classification code.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Grants and Contracts Division, Office of Resource Management, Office of Science, U.S. Department of Energy, Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures.

RECORD SOURCE CATEGORIES:

Grant applications and contract proposals.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None

DOE–83

SYSTEM NAME:

Allegation-Based Inspections Files of the Office of Inspector General.

SECURITY CLASSIFICATION:

Unclassified and classified.

SYSTEM LOCATION:

Official Allegation-Based Inspections Files are located at:

U.S. Department of Energy, Office of Inspector General, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Office of Inspector General, P.O. Box 5400, Albuquerque, NM 87115

U.S. Department of Energy, Office of Inspector General, Building 703–41A, Aiken, SC 29802

U.S. Department of Energy, Office of Inspector General, P.O. Box 2254, Livermore, CA 94551

U.S. Department of Energy, Office of Inspector General, P.O. Box 62, Room 502, Oak Ridge, TN 37831

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subjects of inspections or inquiries concerning allegations or complaints, individuals who have pertinent knowledge about the inspection or inquiry, individuals authorized to furnish information, confidential informants, complainants, Office of Inspector General inspections personnel, and other individuals involved in these inspections.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inspection files predicated on allegations or complaints and which identify subjects or sources of information by name. Inspections performed relate to sensitive allegations of wrongdoing received concerning certain individuals, including agency employees, or other persons or entities with some relationship to the agency. Allegations include, but are not limited to, abuse of authority; misuse of government time, property, or position; conflicts of interest; whistleblower reprisal; or other non-criminal violations of law, rules, or regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; The Inspector General Act of 1978, as amended, 5 U.S.C. App. 3.

PURPOSE(S):

The records are maintained and used by the Department in furtherance of the responsibilities of the Inspector General. These responsibilities include evaluating the effectiveness and efficiency of an operation, determining compliance with laws and regulations, evaluating Departmental program operations and results, preventing and detecting fraud and abuse in such programs and operations, and assuring the investigation of complaints by contractor employees alleging retaliation for making disclosures protected under 10 CFR part 708 and 41 U.S.C. 265.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements

8. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name of individual involved, case number, report title, or subject matter.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Inspector General for Inspections, U.S. Department of Energy, Room 5B–250, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above.

RECORD SOURCE CATEGORIES:

Subject individuals; individuals and organizations that have pertinent knowledge about a subject individual or corporate entity; those authorized by an individual to furnish information; confidential informants; and Federal Bureau of Investigation (FBI) and other Federal, state, and local entities.

SYSTEM EXEMPTED FROM CERTAIN PROVISION OF THE ACT:

This system is exempt under (k)(1) and (k)(2) of the Privacy Act to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1), (e)(4)(G) and (H) and (f) of the Act; See the DOE Privacy Act regulation at Title10, Code of Federal Regulations, part 1008.

DOE–84

SYSTEM NAME:

Counterintelligence Investigative Records.

SECURITY CLASSIFICATION:

Classified and unclassified.

SYSTEM LOCATION:

Records maintained in DOE–84, except those pertaining to polygraph examinations and the e-mail analysis project, will be stored at the following locations:

U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87115

U.S. Department of Energy, Argonne National Laboratory-East, 9700 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy Brookhaven National Laboratory, P.O. Box 5000, Upton, NY 11973–5000

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83403

U.S. Department of Energy, Lawrence Livermore National Laboratory, 7000 East Avenue, P.O. Box 808, Livermore, CA 94551

U.S. Department of Energy, Lockheed Idaho Technical Center, 765 Lindsay Boulevard, Idaho Falls, ID 83403

U.S. Department of Energy, Los Alamos Area Office, M/S B–236, P.O. Box 1663, Los Alamos, NM 87545

U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, P.O. Box 808, Livermore, CA 94550

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343

Pacific Northwest National Laboratory, 902 Battelle Blvd., P.O. Box 999, Richland, WA 99352

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352;

U.S. Department of Energy, Rocky Flats Field Office, P.O. Box 928, Golden, CO 80402

U.S. Department of Energy, Rocky Flats, World Wide Security Services, Ltd, P.O. Box 40, Broomfield, CO 80038

U.S. Department of Energy, Sandia National Laboratory—Albuquerque, P.O. Box 5400, Albuquerque, NM 87185–5800

U.S. Department of Energy, Sandia National Laboratory—California, P.O. Box 969, Livermore, CA 94551

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801; Savannah River, Westinghouse Savannah River Company, Bldg. 703–45A, Aiken, SC 29808

Records maintained in DOE–84 in connection with DOE administered counterintelligence-scope polygraph examinations, will be maintained only at the following locations:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, DOE Test Center, Albuquerque, NM 87106

Records maintained in DOE–84 in connection with the DOE e-mail analysis project will be maintained only at the following locations:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Lawrence Livermore National Laboratory, 7000 East Avenue, P.O. Box 808, Livermore, CA 94551

U.S. Department of Energy, Los Alamos Area Office, P.O. Box 1663, Los Alamos, NM 87545

U.S. Department of Energy, Pacific Northwest National Laboratory, 902 Battelle Blvd., P.O. Box 999, Richland, WA 99352

U.S. Department of Energy, Sandia National Laboratory—Albuquerque, P.O. Box 5800, Albuquerque, NM 87185–5800

U.S. Department of Energy, Sandia National Laboratory—California, P.O. Box 969, Livermore, CA 94551

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former DOE employees and contractor employees; applicants for employment at DOE; individuals who may be assigned or detailed to Federal positions at DOE; consultants to DOE; users of the e-mail systems at the Sandia National Laboratories, Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Pacific Northwest National Laboratory; persons suspected of violating DOE regulations or criminal laws; individuals who voluntarily request a polygraph examination in order to respond to questions that have arisen in the context of a counterintelligence investigation; and those individuals who are (a) reasonably believed to be officers or employees of, or otherwise acting for or on behalf of, a foreign power; (b) members of an organization reasonably believed to be owned or controlled directly or indirectly by a foreign power; (c) reasonably believed to be targets, hostages, or victims of international terrorist organizations; or (d) reasonably believed to be engaged or about to engage in clandestine intelligence activities, sabotage, assassinations, or international terrorist activities involving DOE programs, personnel, facilities, information, or materials and have made personal or impersonal contact with a current or former DOE employee, contractor employee or consultant.

CATEGORIES OF RECORDS IN THE SYSTEM:

Law enforcement records, reports and files; reports on foreign contacts; records, reports and files received from other DOE elements and other Federal agencies related to intelligence activities; counterintelligence evaluation records; polygraph examination records; reports and videotapes of the polygraph session; and electronic mail stored on CD.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; The Atomic Energy Act of 1954, as amended; National Defense Authorization Act of Fiscal Year 2000 Pub. L. 106–65; the Employee Polygraph Protection Act, Pub. L. 100–347; 29 U.S.C. 2006 (b)(1)(B); the Electronic Communications Privacy Act, Pub. L. 99–508, 18 U.S.C. 2510 *et seq.*; Executive Order 12333, United States Intelligence Activities (December 4, 1981); Department of Energy Procedures for Intelligence Activities, approved by the Attorney General under Executive Order 12333 (October 19, 1992); Executive Order 12958, Classified National Security Information (April 17, 1995); Executive Order 12968, Access to Classified Information (August 2, 1995); and Presidential Decision Directive-61.

PURPOSE(S):

The information is maintained and used by the Department to conduct counterintelligence investigations. The records in this system also will be used by the Office of Counterintelligence when participating in joint law enforcement counterintelligence-related investigations with the FBI or other Federal law enforcement agencies or components thereof in order to detect and prevent foreign intelligence threats directed at or involving DOE classified and sensitive information, materials, programs, facilities, personnel, and other Department resources. Finally, the records in this system are collected and maintained by the Office of Counterintelligence in order to fulfill its statutory responsibilities under section 3154 of the National Defense Authorization Act for Fiscal Year 2000.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to an appropriate Federal, State, local or foreign agency when a record within this system of records, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature, and whether arising by general statute of particular program pursuant thereto.

2. A record from this system of record may be disclosed, as a routine use, to a Federal, state or local agency that maintains relevant information to obtain information relevant to a Department decision concerning the hiring or

retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system may be disclosed as a routine use to a Federal agency, to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. The contractor and its officers receiving information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, electronic media, and videotapes.

RETRIEVABILITY:

Records may be retrieved by name and/or social security number.

SAFEGUARDS:

Paper records and videotapes are maintained in locked cabinets. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), secured for classified information and are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Counterintelligence, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers of the ''System locations'' listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Office at the appropriate address identified above under ''System locations.'' Requests for polygraph records should be directed to Headquarters, Freedom of Information and Privacy Act Division, U.S. Department of Energy. The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as notification procedures above. Records are generally kept at locations where work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, present and former DOE employees and DOE contractor employees, applicants for employment, individuals assigned or detailed to Federal positions at DOE, and consultants; any user of the DOE e-mail systems at Sandia National Laboratories, Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Pacific Northwest National Laboratory; publicly available material; other agencies within the Intelligence Community; other offices within the DOE; the FBI, and other federal, state and local law enforcement agencies; and sources contacted during investigations.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt pursuant to subsections (j)(2) and (k)(1), (2) and (5) of the Privacy Act, 5 U.S.C. 552a, to the extent that information within the system meets the requirements of those subsections of the Act. Under subsection (j)(2) of the Privacy Act, this system has been exempted from subsections (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4)(G) and (H), (e)(8), (f) and (g) of 5 U.S.C. 552a. See DOE the Privacy Act Regulation at 10 CFR 1008.12.

To the extent the information in this system of records is exempt pursuant to 5 U.S.C. 552a(k)(1), (2) and (5), the system has been further exempted from subsections (c)(3), (d), (e)(1), (e)(4)(G) and (H) and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. See the DOE Privacy Act Regulation at 10 CFR 1008.12(b).

DOE–86

SYSTEM NAME:

Human Radiation Experiments Records.

SECURITY CLASSIFICATION:

None.

LOCATIONS:

U.S. Department of Energy, Office of Human Radiation Experiments, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Coordination and Information Center, 3084 S. Highland St., Las Vegas, NV 89109

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who participated in the organizing, conducting, and financing of the Human Radiation Experiments and environmental releases of radiation described in Executive Order 12891, 59 FR 2935 (January 20, 1994). Records are also maintained on persons who were subjects of the experiments or were affected by the releases. Generally, the records pertain to persons in the following categories: (1) Former and current employees of the DOE, its predecessor agencies and their contractors and subcontractors; (2) members of the public; (3) persons exposed to radiation as a result of proximity to nuclear facilities or the intentional or accidental release of radiation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to the planning, organizing, financing, conducting, effects and results of experiments and environmental releases, gathered from DOE, its predecessor agencies and their contractors and subcontractors. Such records include correspondence,

memoranda, published and unpublished reports, notes, logs, proposals, contracts, minutes of meetings of the Atomic Energy Commission and its advisory committees and subcommittees dealing with radiation, correspondence with members of the public, transcripts of interviews of persons associated with the organizing, financing and conducting of the experiments, reports of Congressional hearings, personal notes, diaries and papers, archival collections, interagency memoranda and agreements, consent forms, medical and laboratory reports, transcripts of medical conferences, and newspaper and magazine articles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 42 U.S.C. 7151; 42 U.S.C. 2201 and 42 U.S.C. 5813 and 5817.

PURPOSE(S):

The purpose of this system of records is to assist members of the public in piecing together their own (or immediate family) history of possible involvement in government-sponsored radiation experiments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the Advisory Committee on Human Radiation Experiments to perform its assigned task of evaluating the scientific and ethical aspects of the Human Radiation Experiments and environmental releases. A record from this system of records may be disclosed to that Committee to provide it with information concerning experiments or releases of radiation that were sponsored, financed or conducted by DOE, its predecessors, or other Federal agencies, and their contractors and subcontractors. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

2. A record from this system may be disclosed as a routine use pertaining to another Federal agency if it appears from the record, or other available information, that the other Federal agency conducted the Human Radiation Experiment or environmental release or that referral to the other Federal agency is appropriate for remedial purposes.

3. A record from this system may be disclosed as a routine use to DOE contractors and subcontractors conducting epidemiological, industrial safety or hygiene studies to ascertain or determine: (a) How radiation exposure effects the health and well being of individuals or groups of individuals; and (b) the risks of working with, or being in proximity to, nuclear equipment, devices and facilities and how such risks may be ameliorated. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. A record from this system may be disclosed as a routine use to the Centers for Disease Control and Prevention, other Federal and state health agencies, and Federal and state agencies involved with industrial or employee safety to be used for epidemiological or industrial safety or hygiene studies to ascertain or determine: (a) How radiation exposure effects the health and well being of individuals or groups of individuals; and (b) the risks of working with, or being in proximity to, nuclear equipment, devices and facilities, and how such risks may be ameliorated.

5. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

6. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

7. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

8. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

9. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

10. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

11. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

12. A record from this system of records may be disclosed to officials and contractor personnel of the Agency for Toxic Substances and Disease Registry in carrying out that agency's authorized activities at DOE's facilities pursuant to section 104(I) of the Comprehensive

Environmental Response, Compensation, and Liability Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

The records may be retrieved by name or other personal identifier as dictated by the needs of the particular researcher.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Director, Office of Human Radiation Experiments, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Manager, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures.

RECORD SOURCE CATEGORIES:

Persons conducting or otherwise having a role in the organization and financing of experiments or releases, present and former DOE and predecessor agency contractors and subcontractors, physicians, medical records, dosimetry records, subject individuals, DOE and its predecessor agency officials and operating offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–88

SYSTEM NAME:

Epidemiologic and Other Health Studies, Surveys and Surveillances.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Energy, Office of Environment, Safety and Health, Office of Health Studies, Germantown, MD. 20874–1290. Portions also may be located with contractors, other entities involved in conducting or managing health studies, surveys, and surveillances, or other Department offices listed below:

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Grand Junction, P.O. Box 2567, Grand Junction, CO 81502–2567

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), 3610 Collins Ferry Road Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80402–0928

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Data about individuals who were included in any authorized epidemiologic or other health study, survey, or surveillance. Such persons include current and former employees of the Department, its predecessor agencies, and their contractors and subcontractors, as well as other individuals included in health studies, surveys, and surveillances pertaining to any potential health hazard (including electromagnetic fields) associated with energy production, transmission, or use. Accordingly, persons having access, or in proximity, to the Department's facilities, persons involved in or effected by energy production activities,

and members of the general population selected as control groups also may be included.

As defined in Executive Order 12891, Human Radiation Experiments include: (1) Experiments on individuals involving intentional exposure to ionizing radiation. This category does not include common and routine clinical practices, such as established diagnosis and treatment methods, involving incidental exposures to ionizing radiation; (2) experiments involving intentional environmental releases of radiation that (A) were designed to test human health effects of ionizing radiation; or (B) were designed to test the extent of human exposure to ionizing radiation; (3) the experiment into the atmospheric diffusion of radioactive gases and test of detectability, commonly referred to as the ''Green Run test,'' conducted by the former Atomic Energy Commission and the Air Force in December 1949 in Hanford, Washington; (4) two radiation warfare field experiments conducted at the Atomic Energy Commission's Oak Ridge office in 1948 involving gamma radiation released from non-bomb point sources at or near ground level; (5) six tests conducted during 1949–1952 of radiation warfare ballistic dispersal devices containing radioactive agents at the U.S. Army's Dugway, Utah, site; (6) four atmospheric radiation-tracking tests in 1950 at Los Alamos, New Mexico; and (7) other similar human experiments that may later be identified by the Human Radiation Interagency Working Group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Specific types of records collected and maintained are determined by the needs of the individual study, survey, or surveillance. Examples include, but are not limited to, questionnaires, demographic information, work history, medical and reproductive history, birth data, radiation and other exposure history, laboratory test results, data from prior studies, surveys, and surveillances, alcohol and tobacco use history, and illness absence information. Information may be collected directly from individuals, as well as extracted as necessary from personnel files and lists, training files, medical records, legal case files, bioassay records, industrial hygiene files, payroll and leave records, radiation and other hazard exposure records, occupational and industrial accident records, employee insurance claims, personnel security clearance questionnaires, personnel assurance program records, and related sources.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 42 U.S.C. 7151 and 7297; 42 U.S.C. 2201(c), 2201(i)(3), 5813 and 5817

PURPOSE(S):

The information is maintained and used by the Department to conduct epidemiological and other health studies, surveys and surveillances, conducted by the Department and the Department of Health and Human Services performing studies for the Department, their contractors, grantees, and collaborating researchers. The health studies pertain to individual and aggregate population health risks from exposures to radiation, or other chemical, physical, or biological hazards that may occur or may have occurred as a result of the Department's, or its predecessor agencies' operations, or as a result of energy production, transmission, or use. Individually identifiable information does not appear in published epidemiological studies or other published health studies, surveys, and surveillances. However, the system will contain records compiled in completing published and unpublished studies, surveys, and surveillances from which information may be retrieved by name or other personal identifier.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health, the National Center for Environmental Health of the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry pursuant to a Memoranda of Understanding between the Department and the Department of Health and Human Services or its components. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

2. A record from this system of records may be disclosed as a routine use to contractors, grantees, participants in cooperative agreements and collaborating researchers, or the employees of these parties, when conducting health studies or related health or environmental duties pursuant to their contracts, grants, and cooperating or collaborating research agreements. In order to perform such studies, the Department, its contractors, grantees, participants in cooperative agreements, and collaborating researchers may disclose a record: to Federal, State, and local health and medical agencies or authorities; to subcontractors in order to determine a subject's vital status or cause of death; to health care providers to verify a diagnosis or cause of death; or to third parties to obtain current addresses for participants in health-related studies, surveys and surveillances. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the above described research purposes. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

3. A record from this system of records may be disclosed to members of Department advisory committees, the Department of Health and Human Services Advisory Committee on Projects Related to Department of Energy Facilities, and to designated employees of Federal, State, or local government, or government-sponsored entities, authorized to provide advice to the Department concerning health, safety, or environmental issues. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the purpose of providing advice to the Department or to the Department of Health and Human Services. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. A record from this system of records may be disclosed as a routine use, to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

5. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those

representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

6. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

7. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public information on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as microfilm, paper records, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, study/surveillance-assigned control number, social security number, or other personal identifier, as dictated by the needs of the particular researcher.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Director, Office of Epidemiologic Studies, Germantown, Md. 20874–1290.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters, Freedom of Information Act and Privacy Act Division, U. S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under ''System locations.'' The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as notification procedures.

RECORD SOURCE CATEGORIES:

Subject individual and the individual's employer, including DOE and its predecessor agencies and their contractors and subcontractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 01–11673 Filed 5–15–01; 8:45 am]

BILLING CODE 6450–01–P

Federal Register

Wednesday,
May 16, 2001

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Revised Landing Gear Shock Absorption Test Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–1999–5835; Amendment No. 25–103]

RIN 2120–AG72

Revised Landing Gear Shock Absorption Test Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the airworthiness standards for landing gear shock absorption test requirements for transport category airplanes by incorporating changes developed in cooperation with the Joint Aviation Authorities (JAA) of Europe and the U.S. and European aviation industry through the Aviation Rulemaking Advisory Committee (ARAC). This amendment reduces the number of design weight conditions required to be demonstrated by shock absorption tests and changes the objective of the tests to include the complete validation of the landing gear dynamic characteristics. This amendment also removes some means of compliance criteria from the rule since it is more appropriately set forth in advisory material.

EFFECTIVE DATE: June 15, 2001.

FOR FURTHER INFORMATION CONTACT: James Haynes, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, FAA, 1601 Lind Ave. SW., Renton, WA 98055–4056; telephone (425) 227–2131.

SUPPLEMENTARY INFORMATION:

Availability of Final Rules

You can get and electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page *http://dms.dot.gov/search*.

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this amendment. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the final rule.

You can also get and electronic copy using the Internet *through FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm* or the **Federal Register's** web page at *http://www.access.gov/su_docs/aces/aces140.html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this final rule.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT.** You can find out more about SBREFA on the Internet at our site *http://www.faa.gov/avr/arm/sbrefa.htm* For more information on SBREFA, e-mail us at *9–AWA–SBREFA@faa.gov.*

Background

The manufacturing, marketing and certification of transport airplanes is increasingly an international endeavor. In order for United States manufacturers to export transport airplanes to other countries, the airplane must be designed to comply, not only with the U.S. airworthiness requirements for transport airplanes (14 CFR part 25), but also with the transport airworthiness requirements of the countries to which the airplane is to be exported.

The European countries have developed a common airworthiness code for transport airplanes that is administered by the JAA of Europe. This code is the result of a European effort to harmonize the various airworthiness codes of the European countries and is called the Joint Aviation Requirements (JAR)–25. It was developed in a format similar to part 25. Many other countries have airworthiness codes that are aligned closely to part 25 or to JAR–25, or they use these codes directly for their own certification purposes.

The ARAC was established by the FAA on February 15, 1991, with the purpose of providing information, advice, and recommendations to be considered in rulemaking activities. By notice in the **Federal Register** (59 FR 30081, June 10, 1994), the FAA assigned several new tasks to an ARAC working group of industry and government structural loads specialists from Europe, the United States, and Canada. Task 6 of the working group charter concerned the shock absorption test requirements for landing gear. The ARAC working group completed its work for this task and the ARAC made recommendations to the FAA by letter dated October 29, 1997.

Although the requirements for landing gear shock absorption tests are essentially the same between the Federal Aviation Regulations (FAR) and JAR, the requirements do not address the capabilities of modern technology and do not take into account other related changes in the requirements for landing gear load conditions that have already been incorporated into other sections of the FAR. When the landing loads requirements for transport airplanes were originally developed, the required the landing load factors to be determined and applied to the airplane. The airplane was treated as a rigid body and the landing loads were applied to this rigid representation of the airplane for the purpose of structural analysis. For the early landing gear systems, analysis alone was considered sufficient for determining the landing load factor that will be applied to the rigid airplane. It was only necessary to determine the landing load factor (by analysis or tests) and this load factor will then be used to design and substantiate the airplane for the landing load conditions.

The development of more complex landing gear systems, for which analysis alone was unreliable, led to the adoption of a requirement to verify the landing factor by actual shock absorption tests. This requirement was added to the Civil Air Regulations (CAR) 4b, which was the predecessor to part 25. These shock absorption tests were allowed by § 4b.200 of the CAR to be free drop tests in which the gear alone, could be dropped in free fall to impact the ground. In these tests, mass is added to represent the proportion of the airplane weight on the landing gear unit, and the mass may be reduced to account for the effects of airplane lift acting during the landing impact. Later, the corresponding requirement in § 25.723(a), was modified to allow the substantiation of some changes to the landing gear shock absorption systems by analysis alone without verification by tests.

Prior to this amendment, §§ 25.473(d) and 25.723(a) for shock absorption tests required just the determination of the limit landing load factor from the shock absorption test. However, the landing gear shock absorption systems had become even more sophisticated and the airplane had become more flexible. Part 25 was previously revised to require that determinations of airplane loads in the landing configuration take into

account the dynamic flexibility of the airplane. In order to determine the airplane loads in the landing load conditions, it was no longer sufficient to determine just the load factor from a drop test of a landing gear unit. A comprehensive analysis of the combined dynamic systems for the landing gear and airplane had become essential in order to determine the structural design loads for the airplane. In developing the mathematical model, it is necessary to provide an accurate representation of all the landing gear dynamic characteristics. This includes the energy absorption characteristics and the time histories of force and displacement during a landing impact.

Notice 99–08 was published in the **Federal Register** on June 18, 1999 (64 FR 32978). The notice proposes to revise the main objective of the shock absorption tests to be the validation of the landing gear dynamic characteristics which make up the analytical model rather than just to determine the landing load factors. In addition, the number of actual design weight conditions were proposed to be reduced to include just the landing weight, or design take-off weight, whichever provided the greatest landing impact energy. Furthermore, §§ 25.725 and 25.727 were proposed to be removed from part 25, since these sections only contained criteria for one means of compliance to the shock absorption test requirement. These criteria were proposed to be set forth as acceptable means of compliance in Advisory Circular (AC) 25.723–1 ''Shock Absorption Tests.''

Discussion of Comments

There are 6 commenters from aviation manufacturers and foreign airworthiness authorities. Although one commenter objects to the proposed rule, most of the commenters support the proposed changes. Several of the commenters provide suggestions for clarity, consistency and organization. Comments are summarized as follows along with disposition.

One commenter objects to the proposed change in the basic purpose of the shock absorption tests from the validation of the load factors to the validation of the dynamic characteristics of the landing gear. The commenter believes that the new proposal has the potential for requiring a significant volume of recalculation for refinement of load values and this would be neither productive nor cost effective. Furthermore, the commenter believes that this approach would not fit well in the timeline between design concept and the development of the first prototype and so would bring the potential for discovering a different answer for the completed product late in the design process. Finally, the commenter believes the existing regulations are sufficient. The FAA agrees that validation of dynamic characteristics by test always brings a risk if the assumptions made in the prediction of these characteristics are not sufficiently accurate or conservative. However, the process of prediction, design, and validation are normal, and expected, in the development of aircraft and the risks can be minimized by the use of conservative assumptions. Furthermore, the FAA does not agree that the existing shock absorption test requirements are sufficient. The development of airplane loads for dynamic landing conditions requires a valid analytical model of the landing gear which includes a valid representation of the energy absorbing characteristics of the gear. The dynamic landing requirement has existed in 14 CFR part 25 for a number of years but the validation shock absorption test requirement has remained outdated, since it requires only the validation of a simple static landing load factor which may not even be used in design of the airplane. Because of the existing dynamic landing requirement, it has become a standard practice to develop the design loads for the airplane structure based on a mathematical model of the airplane and landing gear and to validate the assumed gear characteristics by shock absorption tests. Therefore, the requirement is being updated to be consistent with the related design landing load requirements and also to be consistent with standard practice.

One commenter points out that the terminology used in the proposed § 25.723(a)(1) for design weight conditions was inconsistent with that used in § 25.473, ''Landing load conditions and assumptions,'' which is the same as that used in the proposed AC 25.723–1. The FAA agrees, and the language in the new § 25.723(a)(1) has been changed to refer to these design weight conditions as ''limit design conditions'' and to use the terms ''design landing weight'' and ''design takeoff weight'' to be consistent with § 25.473(a).

One commenter is concerned that the proposed location of the requirement for shock absorption tests in § 25.473(d) implies that the individual tests would be required for each of the landing conditions and configurations specified in § 25.473, including unsymmetrical conditions. The FAA does not agree since the specific landing conditions are referenced in § 25.473(a) while the requirement related to validating landing gear dynamic characteristics, potentially of use in some or all conditions, is set forth in § 25.473(d). Validation is intended to mean that the adequacy of the dynamic characteristics would be confirmed by shock absorption tests to whatever extent necessary to provide confidence in the analysis of the specified landing conditions. To clarify this intent, an additional sentence is added to § 25.723(a) which would require that a range of tests be conducted to ensure that the analytical representation is valid for the design condition specified in § 25.723.

The same commenter suggests that the terms, ''dynamic characteristics,'' are ambiguous and that the rule should completely define dynamic characteristics and specify which dynamic characteristics must be validated by tests. The FAA agrees that these terms are general. However, the FAA does not agree that an exhaustive list of dynamic characteristics or shock absorption characteristics can be provided in the rule. The relevant landing gear dynamic characteristics depend on the parameter chosen by the applicant for use in the analysis. The analysis must represent the full energy absorbing characteristics of the landing gear and it would be impossible to provide an exhaustive list of characteristics that would apply to all designs. Typically the manufacturer will validate the dynamic characteristics used in the analysis in a gross fashion by using the analytical mathematical model to predict the shock absorption response time histories in the test for a range of test conditions. In response to this comment, changes have been made to the proposed advisory material to identify some of the energy absorption components and characteristics that are usually of significance and the extent that they could be changed or revised without additional testing.

One commenter is concerned that the elimination of § 25.723(b) means that the reserve energy shock absorption tests would no longer be required. Removal of § 25.723(b) was not a proposal of Notice 99–08. The commenter fails to recognize that the paragraph is represented in the notice as a set of asterisks at the end of § 25.723(a) signifying that the remaining paragraphs of § 25.723 would remain unchanged. However, consideration of the commenters concern brings to light the fact that the allowance provided in § 25.723(a)(3) for using analysis in lieu of tests, would not necessarily apply to the reserve energy drop test of § 25.723(b). In order to correct this

oversight, § 25.723(b) is clarified, and the allowance in the proposed § 25.723(a)(3) is now set forth in a separate § 25.723(c) and made applicable to both §§ 25.723(a) and (b).

One commenter is concerned that the removal of the free drop test requirements in §§ 25.725 and 25.727 of the rules means that these tests would no longer be required and that this could result in a reduction in the degree of safety. These specific types of tests, known as *free drop tests,* have never been required. They have always been a means of compliance to the general requirement to conduct shock absorption tests. This general requirement for conducting shock absorption tests remains in the revised § 25.723. The free drop test criteria are provided for the manufacturer that chooses to use this particular method of performing the required shock absorption tests. In the free drop test, the manufacturer may represent the airplane lift by using a reduced effective weight for the test. However many manufacturers represent the lifting force directly in a drop test or perform other types of shock absorption tests. The criteria for establishing the effective drop weight is applicable to only this one means of compliance and would be more appropriately presented in an advisory circular (AC). To this end, AC 25.723–1 ''Shock Absorption Tests,'' was made available to provide this means of compliance.

Two commenters are concerned that the removal of the free drop test criteria from the regulation would result in the loss of the current method for establishing the effective mass over the nose gear for the free drop test. As stated above, this information is not being lost but is being moved to an AC as acceptable means of compliance.

Except for the minor editorial and organizational changes mentioned above, the amendment is issued as proposed.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C., 3507(d)), there are no requirements for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify its costs. Our assessment of this proposal indicates that its economic impact is minimal. Since its costs and benefits do not make it a ''significant regulatory action'' as defined in the Order, we have not prepared a ''regulatory impact analysis.'' Similarly, we have not prepared a ''regulatory evaluation,'' which is the written cost/benefit analysis ordinarily required for all rulemaking proposals under the DOT Regulatory and Policies and Procedures. We do not need to do the latter analysis where the economic impact of a proposal is minimal.

Economic Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to preparer a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more, in any one year (adjusted for inflation).

However, for regulations with an expected minimal impact, the above-specified analyses are not required. The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected impact is so minimal that the proposal does not warrant a full Evaluation, a statement to that effect and the basis for it is included in proposed regulation. Since this final rule makes landing gear requirements consistent with other requirements in the FAR, harmonizes these standards to be consistent with the European JAR, and since industry is currently in compliance with the new requirements, the expected outcome is to have a minimal cost impact with positive net benefits.

The regulatory evaluation summary examines the costs and benefits of a Final Rule entitled *Revised Landing Gear Shock Absorption Test Requirements.* The rule changes the transport category airplane certification requirements for landing gear shock absorption tests. This amendment to part 25 updates the current standards to take into account the structural dynamic flexibility of modern airplanes, the complexity of landing gear shock absorption systems, and the ability of highly sophisticated computer models to simulate dynamic structural loads. The amendment also makes landing gear requirements consistent with other requirements in the FAR, harmonizes these standards with those being proposed for the European JAR, and is expected to maintain the level of safety provided by the test requirements.

Background

Landing load requirements have evolved as the designs of transport category airplanes have changed. Initially, analysis alone was considered sufficient for determining the landing load factor that would be applied to a rigid airplane. The development of more complex landing gear systems and flexible airplanes led to the requirement for actual shock absorption tests. Later, the requirement for tests was modified to allow analysis alone to substantiate some changes to landing gear systems.

The current landing load requirements in Subpart D (Design and Construction) of part 25 require determination of the landing load factors for landing gear by means of energy absorption tests (drop tests) at maximum takeoff and landing weights. To comply with the landing load requirements of Subpart D and the requirements of Subpart C (Structure) of part 25, manufacturers build sophisticated computer models that comprehensively analyze landing gear and airplane structure and accurately represent landing gear shock absorption characteristics. These analytical models for landing conditions are validated

through shock absorption tests (usually drop tests) at the maximum takeoff weight and the maximum landing weight.

The rule will allow manufacturers to validate the analytical representation of the dynamic characteristics of landing gear by conducting energy absorption tests at the weight (maximum takeoff weight or maximum landing weight) which provides the maximum impact energy. Because of the ability of the computer models to describe landing gear characteristics, tests at weights other than that of maximum impact energy are unnecessary. The rule will continue to provide for the substantiation of minor changes in landing gear systems through the use of the analyses.

The current §§ 25.725 and 25.727 are deleted as regulatory requirements and moved to a new proposed Advisory Circular 25.723–1, except that current § 25.725(c), which describes conditions for the attitude of the landing gear and the representation of drag loads during the tests, is included in § 25.723.

This amendment was developed by the ARAC and presented to the FAA as a recommendation for rulemaking. This amendment will harmonize shock absorption tests with those being proposed by the JAA.

Costs and Benefits

The requirements, applicable to future type certificated transport category airplanes, will result in two regulatory changes: Utilizing landing gear energy absorption tests to validate the landing gear dynamic characteristics rather than the limit load factor value, and confirming energy absorption in characteristics by requiring tests at either the maximum landing weight or maximum takeoff weight condition, whichever provides the maximum landing impact energy. This is in contrast to current requirements, which require tests at both weight conditions.

The tests results will be used to develop the analytical modeling of the landing gear dynamic characteristics. These regulatory changes are not expected to result in any physical change in the way landing gears are tested: the attitude of the gear being usually simulated directly by orienting the gear on the rig and drag loads being applied by spinning the wheel up to the ground speed. Therefore, it is not expected to impose additional costs on manufacturers. This was confirmed by two manufacturers. No comments to the contrary were received in response to the Notice of Proposed Rulemaking.

Significant cost savings may result from not having to test both at maximum landing weight and maximum takeoff weight, but instead, conducting shock absorption in tests only for the conditions associated with maximum energy. One manufacturer estimates that this would result in 15 fewer test conditions per airplane certification. At a cost of $5,000 per condition, the total cost savings as a result of this provision equals $75,000 per airplane certification. Another manufacturer estimates a cost saving of approximately $190,000 for a ten-year period.

Additionally, by harmonizing the standards of the FAR ad JAR, the rule is expected to yield cost savings by eliminating duplicate certification activities. One manufacturer ''applauds'' this FAA/JAA harmonization effort and its influence on the regulations.

The imposition of this rule is expected to maintain the current level of aviation safety.

Based on the finding of regulatory cost savings, coupled with the cost savings realizable from harmonization, and the expectation that these revisions will maintain the existing level of safety provided by the test requirements, the FAA has determined that the rule is expected to be cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The primary effect of this rule is expected to be cost savings for aircraft manufacturers. The FAA received no comments regarding its earlier assessment of no impact on small entities. The U.S. Small Business Administration specifies in its Table of Size Standards of March 1, 1996 that, for aircraft manufacturers, a small entity is one with 1,500 or fewer employees. Since no part 25 airplane manufacturer is believed to have 1,500 or fewer employees, and the rule is expected to reduce manufacturing costs, the FAA certifies that the rule is not expected to have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments.

Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.''

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from setting any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the

potential effect of this rule and has determined that it is not expected to constitute a barrier to international trade, including the export of American airplanes to foreign countries and the import of foreign airplanes into the United States. The requirements in this rule are expected to have no adverse impact on trade opportunities for U.S. manufacturers selling airplanes in foreign markets and foreign manufacturers selling airplanes into the U.S. market. Instead, by harmonizing the standards of the FAR and the JAR, it will serve to facilitate international trade.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFT in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions, as he or she considers appropriate. Because this final rule applies to the certification of future designs of transport category airplanes and their subsequent operation, it could affect intrastate aviation in Alaska. The Administrator has considered the extent to which Alaska is not served by transportation modes other than aviation, and how the final rule could have been applied directly to intrastate operations in Alaska. However, the Administrator has determined that airplanes operated solely in Alaska would present the same safety concerns as all other affected airplanes; therefore, it would be inappropriate to establish a regulatory distinction for the intrastate operation of affected airplanes in Alaska.

Environmental Analysis

Federal Aviation Administration Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.ID, appendix 4, paragraph 4(j), this amendment qualifies for a categorical exclusion.

Energy Impact

The energy impact of the amendment has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 25 of Title 14, Code of Federal Regulations (14 CFR part 25) as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

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

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

2. Section 25.473 is amended by revising paragraph (d) to read as follows:

§ 25.473 Landing load conditions and assumptions.

* * * * *

(d) The landing gear dynamic characteristics must be validated by tests as defined in § 25.723(a).

* * * * *

3. Section 25.723 is revised to read as follows:

§ 25.723 Shock absorption tests.

(a) The analytical representation of the landing gear dynamic characteristics that is used in determining the landing loads must be validated by energy absorption tests. A range of tests must be conducted to ensure that the analytical representation is valid for the design conditions specified in § 25.473.

(1) The configurations subjected to energy absorption tests at limit design conditions must include at least the design landing weight or the design takeoff weight, whichever produces the greater value of landing impact energy.

(2) The test attitude of the landing gear unit and the application of appropriate drag loads during the test must simulate the airplane landing conditions in a manner consistent with the development of rational or conservative limit loads.

(b) The landing gear may not fail in a test, demonstrating its reserve energy absorption capacity, simulating a descent velocity of 12 f.p.s. at design landing weight, assuming airplane lift not greater than airplane weight acting during the landing impact.

(c) In lieu of the tests prescribed in this section, changes in previously approved design weights and minor changes in design may be substantiated by analyses based on previous tests conducted on the same basic landing gear system that has similar energy absorption characteristics.

§ 25.725 [Reserved]

4. By removing and reserving § 25.725.

§ 25.727 [Reserved]

5. By removing and reserving § 25.727.

Issued in Renton, Washington, on May 9, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 01–12231 Filed 5–15–01; 8:45 am]

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Federal Register

Wednesday,
May 16, 2001

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Revision of Hydraulic Systems Airworthiness Standards To Harmonize With European Airworthiness Standards for Transport Category Airplanes; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 28617; Amendment No. 25–104]

RIN 2120–AF79

Revision of Hydraulic Systems Airworthiness Standards To Harmonize With European Airworthiness Standards for Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the hydraulic systems design and test requirements of the airworthiness standards for transport category airplanes. The amendment adds appropriate existing Joint Aviation Requirements (JAR) standards to achieve harmonization; moves some of the existing regulatory text to a new advisory circular (AC) 25.1435–1; consolidates and/or separates certain subparagraphs for clarity; and revises airplane static proof pressure test requirements to allow a complete functional (dynamic) airplane test at the hydraulic system relief pressure. These revisions were developed in cooperation with the Joint Aviation Authorities (JAA) of Europe, Transport Canada, and the U.S. and European aviation industry through the Aviation Rulemaking Advisory Committee (ARAC). These changes benefit the public interest by standardizing certain requirements, concepts, and procedures contained in the airworthiness standards without reducing, but potentially enhancing, the current level of safety.

DATE: Effective June 15, 2001.

FOR FURTHER INFORMATION CONTACT: Mahinder K. Wahi, Propulsion/Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, FAA, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (425) 227–2142; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Availability of Final Rules

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(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (http://dms.dot.gov/search).

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Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at our site, *http://www.gov/avr/arm/sbrefa.htm.* For more information on SBREFA, e-mail us at *9-AWA-SBREF@faa.gov.*

Background

This amendment is based on notice of proposed rulemaking (NPRM) Notice No. 96–6, which was published in the **Federal Register** on July 3, 1996 (61 FR 35056). The related background leading to Notice No. 96–6 is as follows:

In 1988, the FAA, in cooperation with the JAA and other organizations representing the American and European aerospace industries, began a process to harmonize the airworthiness requirements of the United States and the airworthiness requirements of Europe, especially in the areas of Flight Test and Structures.

In 1992, the FAA harmonization effort was undertaken by the Aviation Rulemaking Advisory Committee (ARAC). A working group of industry and government hydraulic systems specialists of Europe, the United States, and Canada was chartered by notice in the **Federal Register** (57 FR 58843, December 12, 1992) to harmonize requirements and the associated test conditions for hydraulic systems, installed in transport category airplanes (§ 25.1435). The harmonization task was completed by the working group and recommendations were submitted to FAA by letter dated November 6, 1995. The FAA concurred with the recommendations and proposed them in Notice No. 96–6. A Notice of availability of proposed AC 25.1435–1 and request for comments was also published in the **Federal Register** on July 3, 1996 (61 FR 35062). In August 1996, the JAA issued its Notice of Proposed Amendment (NPA) 25F–273: ''Hydraulic Systems'' which included the proposed advisory material AMJ 25.1435. The amendments proposed in NPA 25F–273 and the advisory material proposed in AMJ 25.1435 were substantively the same as the amendments proposed in Notice No. 96–6 and the advisory material in proposed AC 25.1435–1.

As a result, although the FAA (and JAA) has received two sets of comments from the public, in response to the proposed rule and the proposed AC, the comments are interlinked and addressed jointly. Therefore, the FAA has considered both sets of comments in preparing the final rule contained herein and the new AC. The announcement of the FAA's issuance of the new AC will be published in the **Federal Register** once it is available to the public. Interested persons have been given an opportunity to participate in this rulemaking, and due consideration has been given to all matters presented. Comments received are discussed below.

Discussion of Comments

Eight commenters responded to the request for comments contained in Notice No. 96–6, the notice of availability of proposed AC 25.1435–1 and the corresponding JAA document NPA 25F–273 and AMJ 25.1435. Comments were received from foreign airplane manufacturers, foreign airworthiness authorities, and both foreign and domestic industry organizations. The majority of the commenters agree with the proposal and recommend its adoption. However, some commenters disagree with the proposal while providing alternative proposals that appear to merit further consideration by the ARAC. Therefore the FAA tasked the ARAC Hydraulic Systems Harmonization Working Group (HWG) by notice in the **Federal Register** (62 FR 38187, July 16, 1997) to consider the comments and provide recommendations for the disposition of the comments along with any recommendations for changes to the proposal. The disposition of the comments that follows is based on the agreement reached by the HWG. Several

of the comments address multiple issues and some of the issues were addressed by many commenters. As a result, the FAA responses to the comments are organized by individual comment under each proposal, *i.e.,* proposals 1 through 12.

Proposal 1, § 25.1435(a)(1). One commenter states that the structure of the punctuation in the first sentence appears to allow leakage under proof pressure, providing that such leakage does not prevent the element from performing its intended function. The proper intent should be to prohibit any leakage under proof pressure. The commenter suggests to revise the regulatory text of the first sentence as follows: ''(1) Withstand the proof pressure without leakage and without permanent deformation that would prevent it from performing its intended function, and withstand the ultimate pressure without rupture.'' The FAA agrees that some clarification of the rule text is necessary. The FAA does not however agree with the commenter's suggested text because under proof pressure, some external seal leakage is allowed as long as the element's ability to perform its intended function remains unaffected once the design operating pressure (DOP) is restored. Accordingly, the final rule text of the first sentence and the associated advisory circular text have been revised to read:

Rule text: ''(a) *Element design.* Each element of the hydraulic system must be designed to:

(1) Withstand the proof pressure without permanent deformation that would prevent it from performing its intended functions, and the ultimate pressure without rupture.''

Advisory circular text: The following text has been added to Paragraph 4a(1)(d), Ref. § 25.1435(a)(1), of the AC: ''At proof pressure, seal leakage not exceeding the allowed maximum in-service leak rate is permitted. Each element should be able to perform its intended function when the DOP is restored.'' For consistency, in Paragraph 4a(2), Ref. § 25.1435(a)(2), of the AC, the following text will be added: ''At limit load, seal leakage not exceeding the allowed maximum in-service rate is permitted.''

Another commenter recommends that consideration be given to address system ''return pressures'' in addition to the ''design, proof, and ultimate pressures'' in the table presented as part of § 25.1435(a)(1). The FAA did consider the return pressures but decided that since the factors specified in the table apply to both high/supply pressures and low/return pressures, it was unnecessary to specify two sets of factors.

A third commenter recommends that the advisory material should include guidance for determination of the DOP for elements in the low pressure side of the system. The FAA concurs and has added the following definition in the AC, Paragraph 4a(1)(b), Ref. § 25.1435(a)(1): ''The DOP for low pressure elements (*e.g.,* return, case-drain, suction, reservoirs) is the maximum pressure expected to occur during normal user system operating modes. Included are transient pressures that may occur during separate or simultaneous operation of user systems such as slats, flaps, landing gears, thrust reversers, flight controls, and power transfer units. Short term transient pressures, commonly referred to as pressure spikes, that may occur during the selection and operation of user systems (e.g., those pressure transients due to the opening and closing of selector/control valves) may be excluded, provided the fatigue effect of such transients is addressed in accordance with Paragraph 4a(4) of this AC.''

A fourth commenter proposes to replace the term DOP with the term ''nominal pressure'' claiming that this terminology was consistent with MIL-standards and the commenter's own country's practices where operating pressure of 3000 psi corresponds to the nominal pressure. The FAA notes that consideration was given by the working group to use the term ''nominal pressure'' but no agreement could be reached on its definition because the term ''nominal'' could involve tolerances, fluctuations, and other interpretations; the term ''DOP'' is more specific.

This commenter also proposes that the same safety factor be used for all elements, *i.e.,* not less than 1.5 for proof pressure and not less than 3.0 for burst pressure. The FAA does not agree. Existing U.S. and European industry standards/practices were used to arrive at these factors and to harmonize with current JAR 25, Appendix ''J'' (Appendix ''K'' effective May 27, 1994) requirements. The commenter's suggestion would simplify the requirements but does not reflect the acceptable industry standards.

For the above reasons, the proposed § 25.1435(a)(1) has been modified by deleting reference to ''without leakage'' and text added in the advisory circular regarding leakage and a definition of the DOP for elements in the low pressure side of the system.

Proposals 2 and 3, §§ 25.1435(a)(2), (3). One commenter states that in spite of the guidance material, there is still room for misunderstanding the meaning of structural loads in the context of hydraulic system elements. The commenter states that the intent is that the designer must consider those loads arising when the airplane responds to the relevant critical loading conditions of subpart C, in which case it would improve clarity to say so. Also, the strength analysis of hydraulic system elements must not stop at consideration of inertia, dynamic and aerodynamic loads, but must also include consideration of strains imposed by the deformation (bending, twist, etc.) of the structure to which the elements are attached. Furthermore, thermal stresses are likely to be important at the normal operating temperature of the hydraulic system. To address these factors, the commenter proposes the following amendment:

''§ 25.1435(a)(2)—Withstand, without deformation that would prevent it from performing its intended functions, the design operating pressure in combination with the loads and structural deflections arising from the critical limit loading conditions of subpart C. Where appropriate, thermal effects must also be taken into account.

§ 25.1435(a)(3)—Withstand, without rupture, the design operating pressure multiplied by a factor of 1.5, in combination with the ultimate loads and ultimate structural deflections arising from the critical loading conditions of subpart C. Where appropriate, thermal effects must also be taken into account.''

The commenter also suggests that the third sentence of Paragraph 4a(2) of the proposed AC be modified to read: ''The loading conditions to be considered include, but are not limited to flight and ground maneuvers, and gust and turbulence conditions. The loads arising in these conditions should be combined with the maximum hydraulic pressures, including dynamic transients, that could occur simultaneously. Where appropriate, thermal effects should also be accounted for in the strength justification.''

The FAA has considered these comments. The commenter's suggested amendments to §§ 25.1435(a)(2) and (a)(3) are inherent in the regulations as stated in the original document and do not have to be itemized in the rule. Therefore, it was determined that it would be more appropriate that the texts for §§ 25.1435(a)(2) and (a)(3) should remain as proposed in the NPRM but that the associated advisory material should be improved, as suggested by the commenter, to more adequately reflect the intent of the proposed requirements.

The AC, Paragraph 4a(2), is therefore amended to read as follows:

''(2) (Ref. § 25.1435(a)(2)) Limit structural loads are defined in § 25.301(a). The loading conditions of Part 25, Subpart C to be considered include, but are not limited to flight and ground maneuvers, and gust and turbulence conditions. The loads arising in these conditions should be combined with the maximum hydraulic pressures, including transients, that could occur simultaneously. Where appropriate, thermal effects should also be accounted for in the strength justification. For hydraulic actuators equipped with hydraulic or mechanical locking features, such as flight control actuators and power steering actuators, the actuators and other loaded elements should be designed for the most severe combination of internal and external loads that may occur in use. For hydraulic actuators that are free to move with external loads, i.e., do not have locking features, the structural loads are the same as those produced by the hydraulic actuators. At limit load, seal leakage not exceeding the allowed maximum in-service leak rate is permitted.'' For consistency, the statement ''Where appropriate, thermal effects should be accounted for in the strength justification'' will also be added at the end of Paragraph 4a(3) of the AC.

The same commenter further adds ''The final sentence in Paragraph 4a(3) of the proposed AC specifically allows operational/functional failure under (when subjected to) ultimate load conditions. However, the use of the word ''under'' in this context could give rise to confusion as to whether operational/functional failure is allowed ''below'' ultimate load. If so, this would be inconsistent with the safety objectives set by the structural requirements that prohibit failure at any load level up to and including ultimate. If a hydraulic component is essential for continued safe flight then it must not be allowed to fail, or lose operational functionality, at or below, ultimate load conditions. For example, the hydraulic system powering an elevator would be critical for recovery from the design maneuvering condition, and must not be allowed to fail below the ultimate loads associated with this condition. To improve clarity and remove confusion, the wording should be changed to state positively that operational/functional failure is not allowed at any load level up to and including ultimate.'' The FAA agrees with the commenter that no structural failure (rupture) may occur up to ultimate load. However, the commenter seems to be suggesting that operational/functional failures should not be allowed up to ultimate loads. The FAA disagrees. Section 25.1435(a)(3) of the regulation requires that elements of the hydraulic system not rupture (structural failure) up to ultimate loads. Section 25.1435(a)(2) requires operational/functional integrity only up to limit load. Paragraphs 4a(2) and (3) of the AC properly capture this relationship and no change is necessary.

Another commenter suggests that time limits for proof and burst pressure tests be included in the regulation, not just in the AC. The FAA does not agree. The recommended time limits in the proposed AC, paragraph 4(a)(1)(e), are an industry standard and one method, but not the only method, of demonstrating compliance and therefore not appropriate for inclusion in the regulation. The commenter also states that the definitions of pressures and/or pressures and times given in the proposed AC do not appear to match the current JAA criteria and wondered whether they had been fully harmonized. The FAA notes that the proposed pressures and times have been fully harmonized although they may differ from the current JAA criteria (Appendix J to JAR 25). The regulatory agencies have agreed to use the criteria proposed in the AC.

A third commenter states that the proposed advisory material for § 25.1435(a)(3) was simply rephrasing of the regulation and not a means of compliance as expected; a more detailed clarification in the AC of the methods of implementing this requirement was desirable. The FAA notes that the first statement in the AC references regulations relevant to the requirement, however the remainder is advisory and gives details of the methods of pass/fail of a test of the requirement but allows flexibility for the applicant to propose any method acceptable to the FAA.

In light of the above discussion, §§ 25.1435(a)(2) and (a)(3) are adopted as proposed with clarifying text added in the AC to account for thermal effects in strength justification and to allow some leakage at limit load.

Proposal 4, § 25.1435(a)(4). One commenter states that in order to provide sufficient safeguard against the possibility of a premature failure in the operational life of an airplane, it will be necessary to consider the effects of material fatigue variability on life. Conventionally, this would be done through application of an appropriate scatter factor to the result of the fatigue analysis or fatigue test (See JAR ACJ 25.571(a)(3)). To ensure that the effects of variability are properly taken into account in the interpretation of the fatigue analysis and test data required by this paragraph, the commenter proposed the following:

''§ 25.1435(a)(4)—Withstand, without failure, the fatigue effects of repeated loads of variable magnitude expected during its service life, including pressure cycles, pressure transients, externally induced loads, structural deformations and, where appropriate, thermal effects. Appropriate safe-life scatter factors must be applied.''

The FAA understands the concerns expressed here, but does not agree with the linkage to § 25.571, which applies to safe-life components, e.g., landing gear, and not to hydraulic components. However, the intent of this comment is already addressed in AC Paragraph 4c(1), Ref. § 25.1435(c)(1).

The same commenter adds, ''The term ''cyclical loads'' in Paragraph 4a(4) of the proposed AC, is usually associated with a periodic force. It would be better to use the term ''load cycles.'' This paragraph would be an appropriate place to give guidance on the need to cover scatter in fatigue properties—JAR ACJ 25.571(a) has some relevant guidance material.'' The FAA agrees with the use of the term ''load cycles'' and the advisory text has been modified accordingly. The FAA does not agree that any advisory material is needed for scatter factors or the relevance to § 25.571, as discussed earlier.

Another commenter states that it is not understood how the current JAR 25.1435(a)(6) requirement—means of providing flexibility—comes into the new § 25.1435(a)(4) requirement. The FAA notes that it is not the new § 25.1435(a)(4) but rather the new § 25.1435(a)(5) that addresses the current JAR 25.1435(a)(6) requirement and NPRM Proposal 5 clearly stated that. The new § 25.1435(a)(5) addresses the environmental factors, including the vibrational & acceleration effects of the elemental installation as discussed in the associated advisory material. The commenter also suggested including in the advisory material, a recommendation for the scatter factor to be used when conducting the fatigue testing (for example 4.0 for non-critical parts, 6.0 for critical parts). The FAA notes that as stated in Paragraph 4c(1) of the AC, the manufacturer may select design factors identified in accepted manufacturing, national, military, or industry standards provided that it can be established that they are suitable for the intended application. It is not appropriate to give scatter factors since they are more suitable for safe life components, e.g., landing gear and not hydraulic system components.

This same commenter also wonders whether there should be an allowance for the fact that a component might be fitted on more than one airplane in its lifetime, and hence the fatigue cycles could well be considerably more than predicted for a part which is assumed to be on the airplane for its entire life; it would be very useful to have a consistent policy for this issue. The FAA notes that the requirements of §§ 25.671 and 25.1309 specify that the failure of no single element shall jeopardize the continued safe flight and landing of the airplane. Section 25.1435(a)(4) specifies the design requirements of the element and its failure consequences that should be understood and addressed by the designer. The existing requirements adequately cover the overall safety of an airplane at the time of certification and part 25 regulations are not intended to deal with parts tracking. Furthermore, reliability of hydraulic systems is based on redundancy of the design architecture rather than safe-life of components.

Yet another commenter suggests that Society of Automotive Engineers (SAE) document ARP 1383 ''Impulse Testing of Hydraulic Actuators, Valves, Pressure Containers, and Similar Fluid System Components'' be included as a reference in the AC. The FAA notes that ARP 4752 ''Aerospace-Design and Installation of Commercial Transport Aircraft Hydraulic Systems'' listed in the advisory circular in turn refers to ARP 1383. All of the relevant SAE documents are referenced in ARP 4752 and are too numerous to be individually listed in the AC.

For the reasons stated, § 25.1435(a)(4) is adopted as proposed.

Proposal 5, § 25.1435(a)(5). One commenter recommends that the advisory material state that thermal effects be particularly considered for accumulators which are isolated from the hydraulic system by non-return valves. The FAA notes that § 25.1435(a)(5) addresses the environmental factors that are to be considered when designing the element and that in the AC, temperature effects are specifically stated as one of the variables to be addressed. For the stated reasons, § 25.1435(a)(5) is adopted as proposed.

Proposal 6, § 25.1435(b)(1). One commenter expresses a concern that the requirements of (b)(1)(i) could be open for interpretation by different airworthiness authorities, particularly with respect to fluid level quantity indication. The commenter further states that there were occasions when the warning/indication philosophy that had been agreed to with one airworthiness authority had not been agreed to by other authorities and this therefore led to redesign and/or other additional costs. The FAA notes that the commenter's concern of eliminating differences in interpretations is the basic reason for harmonization effort. The intent of the harmonized rule is to specify what type of indication is required from the point of view of what the pilot can use, without specifying the design of the indication. Adoption of a harmonized rule and guidance material will enhance the likelihood of similar interpretations during the certification process. But neither the rule nor the guidance material can assure precision in interpretation and application absent detailed listings of acceptable methods for particular applications. Since the rule and guidance material are intended to establish performance based standards, useful for future applications and developments, as well as current certifications, it is impossible, and undesirable to provide the detail that would assure uniformity. The FAA has determined that the currently agreed upon language is as likely to produce uniform interpretations as any other language which can prudently be adopted.

Another commenter states that ''moving from prescriptive to general indication requirements is considered to be sensible, but to be truly meaningful, the requirement should be stated more objectively. Section 25.1435(b)(1)(ii) is close to being an objective requirement but § 25.1435(b)(1)(i) is not. In fact it is not apparent what indication might be required by § 25.1435(b)(1)(i) that would not be required by § 25.1435(b)(1)(ii).'' The FAA does not agree. Changing the existing requirement of JAR 25.1435(a)(2), which refers to the provision of indications of system pressure and fluid quantity, to § 25.1435(b)(1) which is less prescriptive in that it requires the provision of indications of only the appropriate parameters, establishes an objective statement of the requirement. The FAA has determined that, to ensure continued safe flight and landing, each hydraulic system that either (1) performs an essential function or (2) that requires corrective action by the flightcrew following a malfunction (irrespective of whether it performs an essential function), must be associated with the appropriate flight-crew indications. The associated AC clarifies that the ''appropriate indications'' are not limited other than that they should be appropriate. As discussed in the response to the preceding comment, the FAA believes the current language is as close to a performance based standard as is possible, while avoiding dictating design and allowing flexibility in future design development.

The second commenter also points out that ''in Paragraph 4b of the proposed AC, the statement 'These requirements are unique to hydraulic systems' is questioned.'' The FAA agrees with the commenter. Accordingly, the first sentence ''These requirements are unique to hydraulic systems, and may compliment § 25.1309'' has been deleted and the second sentence has been modified to read ''Design features that should be considered for elimination of undesirable conditions and effects are:''

The first commenter also points out that the NPRM cited this requirement as § 25.1435(a)(1) when it should have been § 25.1435(b)(1). The FAA concurs that the preamble of the proposed rule had a typographical error but not the proposed rule text.

For the stated reasons, § 25.1435(b)(1) is adopted as proposed with clarifying changes made in the AC text including deleting reference to § 25.1309.

Proposals 7, 8, and 9, §§ 25.1435(b)(2), (3), and (4). No comments were received. Sections 25.1435(b)(2), (3), and (4) are therefore adopted as proposed.

Proposal 10, § 25.1435(b)(5). One commenter states that the means to identify the hydraulic fluid may not always be practical—particularly for small components such as in line non-return valves. The FAA notes that the intent of the requirement is not that every component be so identified but rather that suitable placarding be provided as practical so that servicing of the hydraulic system(s) is done with the specified fluid. As pointed out by another commenter, typical/acceptable marking locations for the hydraulic fluid used are hydraulic actuators, refill points, reservoirs, and applicable servicing documents. The second commenter recommends specifying these typical locations in the AC. The FAA concurs and appropriate wording has been included in Paragraph 4b(5), Ref. § 25.1435(b)(5), of the AC.

A third commenter suggests that FAA consider clarifying the language in proposed § 25.1435(b)(5) to address the situation of fluid mixtures. The FAA infers that the commenter is referring to Paragraph 4b(5) of the AC which states: ''If more than one approved fluid is specified, the term suitable hydraulic fluid is intended to include acceptable mixtures.'' The FAA notes that acceptable fluids and/or mixtures are those listed in the airplane

manufacturer's maintenance manuals as approved for that airplane model. These maintenance manual provisions, coupled with the proposed AC language, seem to provide adequate clarity. For the stated reasons, § 25.1435(b)(5) is adopted as proposed.

Proposal 11, § 25.1435(c). One commenter states that as written, this section continues the practice of including some means of compliance within the main code rather than in the advisory material. The commenter believes § 25.1309(d) currently contains the same anomaly, but understands that the decision has been taken in the § 25.1309 Working Group to rectify this by moving § 25.1309(d) into the advisory material. The commenter recommends that the same thing could be done here. The FAA partially accepts this comment, and is amending the opening paragraph by deleting the words ''To demonstrate compliance with § 25.1435 and support compliance with § 25.1309.'' The paragraph would commence ''Tests must be conducted . . . .'' and would otherwise remain unchanged from the original proposal. Except for qualifying statements that bring immediate clarification to the primary regulatory statements, the remainder of the paragraph is considered regulatory and not advisory. Section 25.1435(c) has been revised accordingly.

Proposal 11, §§ 25.1435(c)(1) and (c)(2). One commenter states ''Although it is considered that an endurance test of a complete airplane hydraulic system is a very useful test, there are circumstances where a full endurance test is an expensive exercise with no benefit to the integrity and safety of the airplane. Particular examples of this are: (1) the airplane hydraulic system is substantially based on an existing, well proven in-service airplane, and (2) the number and/or nature of services which are powered hydraulically are such that the loss of the system has no significant effect on the airworthiness of the airplane.''

The FAA concurs with the commenter in that testing may not always be necessary and notes that the proposed requirement test criteria already include the provision ''except that analysis may be used in place of or to supplement testing, where the analysis is shown to be reliable and appropriate.'' The type and extent of testing guidance covered in AC adequately address commenter's concern. In addition, full system testing is not required; subsystem or element testing is allowed. The commenter further states:

''It should be noted that American engineers quite often think of endurance as fatigue testing. It is therefore recommended that 'pressure impulse' be added after fatigue in this section.'' The FAA notes that Paragraph 4c(1) of the AC adequately defines these terms (for all engineers) and the associated testing. For the stated reasons, §§ 25.1435(c)(1), and (c)(2) are adopted as proposed.

Proposal 12, § 25.1435(c)(3). One commenter states: ''It is proposed that this requirement be dispensed with. This is because (1) in the course of an airplane production run, the hydraulic system can undergo many modifications (including the introduction of a cargo door system) which affect the system installation. Yet, it is the norm that this is a once only test which is conducted on an early production airplane during the certification test program, and (2) each airplane should be inspected with respect to clearances with the hydraulic system unpressurized and then pressurized. It is doubtful whether there will be any significant movement of the piping, hoses, components, etc. as a result of increasing the pressure by 25%.''

The FAA notes that this test is conducted only once per installation. However, the FAA requires that any significant modification(s) such as introduction of a cargo door system, a ram air turbine (RAT), or a tail-skid system be assessed along with any associated/affected system(s) to meet this requirement. There are several recent examples of such modifications that will require additional testing. Such testing may also be supplemented by analysis if appropriate.

Regarding the commenter's statement (2) about insignificant movement of the piping etc., when pressurized at 25% above nominal, the FAA concurs and notes that both the proposed and the final rule states that instead a full range-of-motion, testing be conducted at just below the system relief pressure setting. The commenter goes on to state ''There are some reservations with the new test proposal, as follows:

(1) The requirement to check clearances may not be easily achieved for those parts of the system which are actuated, for example, landing gear, flight controls.

(2) As the system is pressurized to a higher value, there may be concerns about safety, particularly as the services may operate quicker.

(3) The validity of the test results could be queried as the flight control actuators are unloaded.''

The FAA notes that: (1) Paragraph 4c(3) of the AC adequately addresses this concern by stating: ''it may be permissible that certain components of the system need not be tested if it can be shown that they do not constitute a significant part of the system with respect to the evaluation of adequate clearances or detrimental effects.''

(2) The system(s) relief valve(s) protect against over-pressurization. Standard safety precautions on the factory floor while the testing is being conducted must be practiced. There are no appreciable differences from full functional test(s) conducted by the manufacturer.

(3) The intent is not to check/verify structural deflections or motion of surfaces for flight controls. Loading is not anticipated to cause surface deflections.

Lastly, the commenter states: ''With respect to the low pressure side of the hydraulic system, it is proposed that the tests be conducted with a dummy return filter element installed, thereby forcing all the fluid through the return filter bypass. This meets the same criteria as for increasing the system pressure to 125%, that is increasing the pressure levels to that which could conceivably occur in service.''

The FAA notes that the commenter's scenario may be applicable to some of the hydraulic system architectures (layouts), but not all. It is the FAA's policy to allow flexibility for the applicant to propose a method of compliance which is acceptable to the cognizant certification office. Specifying the proposed dummy filter installation may be misinterpreted by an applicant as too restrictive. The commenter's suggested method is one means but not the only means of demonstrating compliance.

In light of the discussion above and the explanations already provided in the AC, § 25.1435(c)(3) is adopted as proposed.

General: One commenter states: ''It is considered that the harmonization of the § /JAR 25.1435 has produced a good set of airworthiness requirements. However, there is still a concern that there are areas within the new requirements, which could be subject to interpretation by airworthiness surveyors. It is recommended that the FAA/JAA review the advisory material and ensure that there are no areas where misinterpretation can occur. The reason for this comment is not to direct concern at the professionalism of the JAA and FAA, but rather there is a concern that other national authorities could read in additional requirements where none were intended.'' The HWG together reviewed and developed these regulations and the associated advisory material. Both the regulations and the advisory material are fully harmonized. A considerable amount of time was

spent discussing the very issues and concerns raised by the commenter to arrive at the final rule and the AC. As discussed previously in addressing the comment on Proposal 6, the FAA believes that these rules are as likely to produce uniform interpretations as any other language which can be prudently adopted.

Another commenter points out that the word ''must'' in Paragraphs 4a(1), a(2), and a(4) of the AC, and the word ''shall'' in Paragraph 4a(3) of the AC should be replaced by ''should.'' The FAA agrees and the text in the AC has been revised. The commenter adds that in Paragraph 4a(1), third paragraph, reference to ''structural loads'' should be replaced by ''external loads.'' The FAA does not agree since reference to structural loads is appropriate as used in §§ 25.301 and 25.1435(a)(1).

With the exception of the changes noted in §§ 25.1435(a)(1) and (c) this final rule is adopted as proposed in Notice 96–6.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C, 3507(d)), there are no requirements for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify its costs. Our assessment of this proposal indicates that its economic impact is minimal. Since its costs and benefits do not make it a ''significant regulatory action'' as defined in the Order, we have not prepared a ''regulatory impact analysis.'' Similarly, we have not prepared a ''regulatory evaluation,'' which is the written cost/benefit analysis ordinarily required for all rulemaking proposals under the DOT Regulatory and Policies and Procedures. We do not need to do the latter analysis where the economic impact of a proposal is minimal.

Economic Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires the consideration of international standards and, where appropriate, that they be the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.

In conducting these analyses, the FAA has determined this rule: (1) has benefits which do justify its costs, is not a ''significant regulatory action'' as defined in the Executive Order and is ''not significant'' as defined in DOT's Regulatory Policies and Procedures; (2) will not have a significant impact on a substantial number of small entities; (3) reduces barriers to international trade; and (4) does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector of 100 million or more in any one year. These analyses, available in the docket, are summarized below.

Economic Evaluation

Manufacturers contacted by the FAA (in its preparation of the economic evaluation for the NPRM), estimated that three of the revisions to § 25.1435 (corresponding to proposals 1, 4, and 12) would impose additional costs—revision 1 (regarding design load factors for proof and ultimate pressure conditions), 4 (regarding induced loads, pressure transients, and fatigue), and 12 (regarding functional testing of the complete hydraulic system). However, based on new information from the same manufacturers related to their experiences with recent type certifications, the FAA has determined that none of the provisions will impose incremental costs. The rule changes codify current industry practice and or conform § 25.1435 to corresponding sections of the JAR. Adoption of the rule changes increases harmonization and commonality between American and European airworthiness standards. Harmonizing airworthiness standards reduces manufacturers' certification costs for testing, report preparation, certification-related travel abroad, etc. One manufacturer of part 25 large airplanes estimates that such cost savings could range between $65,000 and $650,000 per type certification (pertaining to hydraulic systems' requirements as discussed in this rulemaking). Since this estimate has such a wide range and represents only one manufacturer, the FAA used the midpoint of approximately $360,000 for a conservative estimate of harmonization cost savings for a part 25 large airplane type certification. A manufacturer of part 25 small airplanes estimates such savings at $65,000 per type certification. The FAA believes these industry-provided numbers are reasonable estimates of potential harmonization cost savings. Potential safety benefits resulting from specification of minimum accepted standards will supplement these cost savings. Thus, with the described benefits and no associated incremental costs, the FAA finds the rule cost-beneficial. (Note: All estimates in this analysis are expressed in 1999 dollars).

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (the Act) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a ''significant economic impact on a substantial number of small entities.'' If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant impact on a substantial number of small entities, section 605(b) of the Act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The rule will affect manufacturers of transport category airplanes produced under future new airplane type certifications. For manufacturers, a small entity is one with 1,500 or fewer employees. Since no part 25 airplane manufacturer has 1,500 or fewer employees, and, in addition, the rule imposes no incremental costs, the FAA certifies that the rule will not have a significant economic impact on a substantial number of small manufacturers.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential effect of this final rule and has determined that it will impose the same costs on domestic and international entities and thus has a neutral trade impact.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to the extent permitted by law, to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a significant regulatory action.

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this final rule applies to the certification of future designs of transport category airplanes and their subsequent operation, it could affect intrastate aviation in Alaska. The Administrator has considered the extent to which Alaska is not served by transportation modes other than aviation, and how the final rule could have been applied differently to intrastate operations in Alaska. However, the Administrator has determined that airplanes operated solely in Alaska would present the same safety concerns as all other affected airplanes; therefore, it would be inappropriate to establish a regulatory distinction for the intrastate operation of affected airplanes in Alaska.

Environmental Analysis

Federal Aviation Administration Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this amendment qualifies for a categorical exclusion.

Energy Impact

The energy impact of the amendment has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 25 of Title 14, Code of Federal Regulations as follows:

PART 25—AIRWORTHINESS STANDARDS—TRANSPORT CATEGORY AIRPLANES

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

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702 and 44704.

2. Section 25.1435 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 25.1435 Hydraulic systems.

(a) *Element design.* Each element of the hydraulic system must be designed to:

(1) Withstand the proof pressure without permanent deformation that would prevent it from performing its intended functions, and the ultimate pressure without rupture. The proof and ultimate pressures are defined in terms of the design operating pressure (DOP) as follows:

Element	Proof (xDOP)	Ultimate (xDOP)
1. Tubes and fittings.	1.5	3.0
2. Pressure vessels containing gas:		
High pressure (e.g., accumulators)	3.0	4.0
Low pressure (e.g., reservoirs)	1.5	3.0
3. Hoses	2.0	4.0
4. All other elements	1.5	2.0

(2) Withstand, without deformation that would prevent it from performing its intended function, the design operating pressure in combination with limit structural loads that may be imposed;

(3) Withstand, without rupture, the design operating pressure multiplied by

a factor of 1.5 in combination with ultimate structural load that can reasonably occur simultaneously;

(4) Withstand the fatigue effects of all cyclic pressures, including transients, and associated externally induced loads, taking into account the consequences of element failure; and

(5) Perform as intended under all environmental conditions for which the airplane is certificated.

(b) *System design.* Each hydraulic system must:

(1) Have means located at a flightcrew station to indicate appropriate system parameters, if

(i) It performs a function necessary for continued safe flight and landing; or

(ii) In the event of hydraulic system malfunction, corrective action by the crew to ensure continued safe flight and landing is necessary;

(2) Have means to ensure that system pressures, including transient pressures and pressures from fluid volumetric changes in elements that are likely to remain closed long enough for such changes to occur, are within the design capabilities of each element, such that they meet the requirements defined in § 25.1435(a)(1) through (a)(5);

(3) Have means to minimize the release of harmful or hazardous concentrations of hydraulic fluid or vapors into the crew and passenger compartments during flight;

(4) Meet the applicable requirements of §§ 25.863, 25.1183, 25.1185, and 25.1189 if a flammable hydraulic fluid is used; and

(5) Be designed to use any suitable hydraulic fluid specified by the airplane manufacturer, which must be identified by appropriate markings as required by § 25.1541.

(c) *Tests.* Tests must be conducted on the hydraulic system(s), and/or subsystem(s) and elements, except that analysis may be used in place of or to supplement testing, where the analysis is shown to be reliable and appropriate. All internal and external influences must be taken into account to an extent necessary to evaluate their effects, and to assure reliable system and element functioning and integration. Failure or unacceptable deficiency of an element or system must be corrected and be sufficiently retested, where necessary.

(1) The system(s), subsystem(s), or element(s) must be subjected to performance, fatigue, and endurance tests representative of airplane ground and flight operations.

(2) The complete system must be tested to determine proper functional performance and relation to the other systems, including simulation of relevant failure conditions, and to support or validate element design.

(3) The complete hydraulic system(s) must be functionally tested on the airplane in normal operation over the range of motion of all associated user systems. The test must be conducted at the system relief pressure or 1.25 times the DOP if a system pressure relief device is not part of the system design. Clearances between hydraulic system elements and other systems or structural elements must remain adequate and there must be no detrimental effects.

Issued in Renton, Washington, on May 9, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 01–12232 Filed 5–15–01; 8:45 am]

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Federal Register

Wednesday,
May 16, 2001

Part VI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1 and Parts 2, et al.
Federal Acquisition Circular 97–26; Introduction; Final Rule
Federal Acquisition Regulations; Interim Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 97–26; Introduction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of interim rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 97–26. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at http://www.arnet.gov/far.

DATES: For effective dates and comment dates, see separate documents which follow.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact the analyst whose name appears in the table below in relation to each FAR case or subject area. Please cite FAC 97–26 and specific FAR case number(s). Interested parties may also visit our website at http://www.arnet.gov/far.

Item	Subject	FAR case	Analyst
I	Electronic Commerce in Federal Procurement	1997–304	Moss.
II	Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.	2001–016	Nelson.
III	Executive Order 13204, Revocation of Executive Order On Nondisplacement of Qualified Workers Under Certain Contracts.	2001–017	Klein.

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

Federal Acquisition Circular 97–26 amends the FAR as specified below:

Item I—Electronic Commerce in Federal Procurement (FAR Case 1997–304)

This interim rule amends the FAR to (a) further implement section 850 of the National Defense Authorization Act for Fiscal Year 1998, Pub. L. 105–85 (section 850) and (b) implement section 810 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398, section 810). Section 850 calls for the use of cost-effective procedures and processes that employ electronic commerce in the conduct and administration of Federal procurement systems. This includes the designation in the FAR of a single point of universal electronic public access to Governmentwide procurement opportunities (the ''Governmentwide Point of Entry'' or ''GPE''). Section 810 allows agencies to provide access to notices through the GPE, as designated in the FAR, instead of publishing them via the Commerce Business Daily (CBD).

This rule designates Federal Business Opportunities (''FedBizOpps'') as the GPE. Agencies have until October 1, 2001, to complete their transition to, or integration with, FedBizOpps. By that date, all agencies must use FedBizOpps to provide access to public notices of procurement actions over $25,000 that are currently required to be published in the CBD along with associated solicitations and amendments. In addition, agencies will not be required to provide notice in the CBD as of January 1, 2002, since access to this information will be provided via the Internet through FedBizOpps.

Item II—Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects (FAR Case 2001–016)

This interim rule amends the FAR to provide language in Part 36 and revises Subparts 17.6 and 22.1 to add cross-references to Part 36. The Executive order provides that agencies may not require or prohibit offerors, contractors, or subcontractors from entering into or adhering to agreements with one or more labor organizations. It also permits agency heads to exempt a project from the requirements of the Executive order under special circumstances but the exemption may not be related to the possibility of, or an actual labor dispute.

Item III—Executive Order 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts (FAR Case 2001–017)

This interim rule amends the FAR to remove Subpart 22.12, Nondisplacement of Qualified Workers Under Certain Contracts. Executive Order 12933, Nondisplacement of Qualified Workers Under Certain Contracts (October 20, 1994), required that building service contracts for public buildings include a clause requiring the contractor under a contract that succeeds a contract for performance of similar services at the same public building to offer certain employees under the predecessor contract, a right of first refusal to employment under the new contract. E.O. 12933 was implemented in the FAR in Subpart 22.12.

On February 17, 2001, President George W. Bush signed E.O. 13204 rescinding E.O. 12933 and calling for the prompt recession of any orders, rules, regulations, guidelines, or policies implementing or enforcing E.O. 12933, to the extent consistent with law. Contracting officers should not take any action on any complaint filed under former FAR Subpart 22.12.

Effective March 23, 2001, the Department of Labor rescinded its rule implementing E.O. 12933 (66 FR 16126, March 23, 2001).

Dated: May 10, 2001.

Al Matera,

Director, Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 97–26 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

All Federal Acquisition Regulation (FAR) changes and other directive

material contained in FAC 97–26 are effective May 16, 2001.

Dated: April 25, 2001.

Deidre A. Lee,

Director, Defense Procurement.

Dated: April 12, 2001.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: April 13, 2001.

James A. Balinskas,

Acting Associate Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 01–12243 Filed 5–15–01; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 4, 5, 6, 7, 9, 12, 13, 14, 19, 22, 34, 35, and 36

[FAC 97–26; FAR Case 1997–304; Item I]

RIN 9000–AI10

Federal Acquisition Regulation; Electronic Commerce in Federal Procurement

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to further implement section 850 of the National Defense Authorization Act for Fiscal Year 1998; and implement section 810 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

Section 850 calls for the use of cost-effective procedures and processes that employ electronic commerce in the conduct and administration of Federal procurement systems. This includes the designation in the FAR of a single point of universal electronic public access to Governmentwide procurement opportunities (the ''Governmentwide Point of Entry'' or ''GPE''). Section 810 allows agencies to provide access to notices through the GPE, as designated in the FAR, instead of publishing them via the Commerce Business Daily (CBD).

This rule designates Federal Business Opportunities (''FedBizOpps'') as the GPE. Agencies have until October 1, 2001, to complete their transition to, or integration with, FedBizOpps. By that date, all agencies must use FedBizOpps to provide access to public notices of procurement actions over $25,000 that are currently required to be published in the CBD along with associated solicitations and amendments. In addition, agencies will not be required to provide notice in the CBD as of January 1, 2002, since access to this information will be provided on the Internet through FedBizOpps.

DATES: *Effective Date:* May 16, 2001.

Comment Date: Interested parties should submit comments to the FAR Secretariat at the address shown below on or before July 16, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.1997–304@gsa.gov

Please submit comments only and cite FAC 97–26, FAR case 1997–304 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Victoria Moss, Procurement Analyst, at (202) 501–4764. Please cite FAC 97–26, FAR case 1997–304.

SUPPLEMENTARY INFORMATION:

A. Background

1. The First Interim Rule

An interim rule was published in the **Federal Register** at 63 FR 58590, October 30, 1998, amending FAR Subpart 4.5 and making associated changes to FAR Parts 2, 5, 13, 14, and 32 to implement Section 850. Section 850 amended Titles 10, 15, 40, and 41 of the United States Code to eliminate the statutory preference for the Federal Acquisition Computer Network (FACNET) computer architecture in conducting transactions electronically. Towards this end, the first interim rule revised the FAR to—

- Promote the use of cost-effective procedures and processes that employ electronic commerce in the conduct and administration of Federal procurement systems; and
- Require Federal procurement systems that employ electronic commerce to apply nationally and internationally recognized standards that broaden interoperability and ease the electronic interchange of information.

The Councils received and considered public comments from 28 respondents that were used in the development of this second interim rule.

2. The Proposed Rule—Designation of FedBizOpps

Section 850 calls for ''any notice of agency requirements or agency solicitation for contract opportunities'' to be provided in a form that allows ''convenient and universal user access through a single, Government-wide point of entry.'' Subsequent to the consideration of public comments on the first interim rule, the Office of Federal Procurement Policy (OFPP) recommended that FedBizOpps (http://www.fedbizopps.gov) be designated as the GPE. The Councils published a proposed rule in the **Federal Register** at 65 FR 50872, August 21, 2000, to solicit public comments on the implementation of OFPP's recommendation. The preamble to the proposed rule describes the Government's objectives in designating a GPE (*i.e.,* to create a central point for electronic access to business opportunities, to follow the commercial lead, and to facilitate re-engineering for sellers and buyers) and how FedBizOpps meets these objectives.

The Councils received and considered public comments from 22 respondents. OFPP also reviewed the comments on the proposed designation and continues to believe that FedBizOpps can most effectively meet the Government's objectives, including improved and enhanced access to information for businesses small and large. Among other things, GSA and the agencies using FedBizOpps have sought to shape FedBizOpps to take advantage of electronic tools that have widespread commercial acceptance and interface with sellers' electronic tools, and can adapt to new tools as they gain commercial acceptance. FedBizOpps allows sellers and service providers to access and download information through different commercial electronic means and business applications, including web-based technology, bulk data feed, and push technology through electronic mail (e-mail). This ability to accommodate various business techniques means that sellers can choose the means they find more suitable (*i.e.,* direct or service-provider

enhanced) for gaining access to Federal business opportunities.

Some comments have urged greater reliance on the private sector in providing access. The Government has a strong interest in ensuring potential sources have reliable electronic access to notices of open market contracting opportunities. For this reason, until more standardized processes evolve to ensure more reliable and accurate searches, it is appropriate for the Government to ensure access by managing the technological architecture for doing so. In the future, it may be possible for the Government to rely on sellers' use of commercial tools to identify Government business opportunities without the Government having to manage a technological architecture.

3. This Second Interim Rule

Public comments received in response to first interim rule and the proposed rule were considered in drafting this second interim rule. This rule designates FedBizOpps as the GPE. Agencies must make notices of contracting opportunities that meet the criteria in FAR 5.101 and 5.201 accessible via FedBizOpps. In addition, the rule—

- Adds place of contract performance and set-aside status to the required notice content;
- Requires agencies to make accessible through FedBizOpps other notices that are currently published in the CBD, such as presolicitation notices and award notices supporting subcontracting opportunities;
- Requires agencies to make accessible via FedBizOpps most solicitations and amendments associated with business opportunities listed on the FedBizOpps website;
- Permits contractors to publicize subcontracting opportunities with the intent of supporting achievement of subcontracting goals; and
- Permits agencies to make accessible via FedBizOpps information that allows potential offerors to better understand how they can meet the Government's needs.

Agencies must provide access to all applicable actions through FedBizOpps by October 1, 2001. This phase-in period is designed to better enable agencies to achieve a smooth transition to FedBizOpps.

This second interim rule also implements section 810, which was enacted after publication of the proposed rule. Public comment is specifically sought on this rule's implementation of section 810.

Section 810 amends section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)). As amended, these provisions allow agencies to provide access to their notices of solicitation either by transmitting them to the GPE designated in the FAR or by publishing them in the Commerce Business Daily (CBD) rather than mandating notice through the CBD as had previously been required.

This rule establishes FedBizOpps (the designated GPE) as the principal venue for procurement notices. As noted above, agencies must begin transmitting notices to FedBizOpps no later than October 1, 2001. Until January 1, 2002, agencies must also direct FedBizOpps to forward the information to the CBD, using the current format prescribed for the electronic version of CBD, Commerce Business Daily Network (CBDNet). The duplication of notices transmitted to FedBizOpps in the CBD through the end of calendar year 2001 will provide additional time for vendors to become acclimated to FedBizOpps as the GPE. On and after January 1, 2002, agencies will no longer be required to provide duplicate notice in the CBD and instead may rely exclusively on the mandatory notice in FedBizOpps to provide the required access.

Since public comments received in response to the first interim rule and the proposed rule have already been addressed, comments on the issues unique to this second interim rule are especially requested.

This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the interim rule establishes FedBizOpps as the single GPE for all large and small business entities accessing notices of proposed contract actions, solicitations, and related procurement information. We have prepared an Initial Regulatory Flexibility Analysis. The analysis is summarized as follows:

The interim rule further implements section 850 of the National Defense Authorization Act for Fiscal Year 1998, Pub. L. 105–85 and section 810 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. L. 106–398. Section 850 amends Titles 10, 15, 40, and 41 of the United States Code to eliminate the preference for electronic commerce within Federal agencies to be conducted on the Federal Acquisition Computer Network (FACNET) computer architecture. Section 810 amends 41 U.S.C. 416 and 15 U.S.C. 637 to allow solicitation notices to be published via a single point of entry on the Internet designated in the FAR or via the Commerce Business Daily.

The objectives of the rule are (1) to designate a single point of entry on the Internet, http://www.fedbizopps.gov, where agencies will be required (as of October 1, 2001), to provide convenient and universal public access to information on their procurement opportunities, and (2) to permit electronic access to notices of solicitation through the single point of entry as a substitute for the currently required paper publication in the CBD beginning on January 1, 2002.

The interim rule will apply to all large and small entities that do business or are planning to do business with the Government. FedBizOpps is designed to be sufficiently versatile to allow sellers and service providers to access and download information through different commercial electronic means, including web-based technology, bulk data feeds, and electronic mail. This versatility will enable the more than 47,340 small and 29,200 large businesses to have easy access to Government business opportunities.

The rule imposes no reporting, recordkeeping, or other compliance requirements. Basic skill in operating a personal computer with access to the Internet is required to access the GPE website. The estimated purchase cost of a personal computer, modem, software, telephone lines, and Internet access is $1,600. The benefit of increased access to Federal contracting opportunities should far outweigh these additional costs.

The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no practical alternatives that will accomplish the objectives of this rule.

The FAR Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy from the FAR Secretariat. The Councils will consider comments from small entities concerning the affected FAR Parts 2, 4, 5, 6, 7, 9, 12, 13, 14, 19, 22, 34, 35, and 36 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97–26, FAR case 1997–304), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

The public has previously been given an opportunity to comment on the proposed designation of FedBizOpps as the Governmentwide point of entry (GPE). A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate the remainder of this interim rule (*i.e.*, the ending on January 1, 2002, of the mandatory forwarding of notices through the GPE to the Commerce Business Daily (CBD)) without prior opportunity for public comment. Permitting electronic notice of business opportunities through the designated GPE as a substitute for the currently required paper publication in the CBD is key to agencies' ability to realize the efficiencies in electronic processes that justify agency investments in these processes. This action is, therefore, necessary to reinforce agency commitment to the use of electronic processes that provide enhanced, user friendly vendor access to Federal business opportunities. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 2, 4, 5, 6, 7, 9, 12, 13, 14, 19, 22, 34, 35, and 36

Government procurement.

Dated: May 10, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 4, 5, 6, 7, 9, 12, 13, 14, 19, 22, 34, 35, and 36 as set forth below:

1. The authority citation for 48 CFR parts 2, 4, 5, 6, 7, 9, 12, 13, 14, 19, 22, 34, 35, and 36 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101 by adding, in alphabetical order, the definition ''Commerce Business Daily (CBD)''; revising the definition ''Federal Acquisition Computer Network (FACNET) Architecture''; and adding the definition ''Governmentwide point of entry (GPE)'' to read as follows:

2.101 Definitions.

* * * * *

Commerce Business Daily (CBD) means the publication of the Secretary of Commerce used to fulfill statutory requirements to publish certain public notices in paper form.

* * * * *

Federal Acquisition Computer Network (FACNET) Architecture is a Government system that provides user access, employs nationally and internationally recognized data formats, and allows the electronic data interchange of acquisition information between the private sector and the Federal Government.

* * * * *

Governmentwide point of entry (GPE) means the single point where Government business opportunities greater than $25,000, including synopses of proposed contract actions, solicitations, and associated information, can be accessed electronically by the public. The GPE is located at http://www.fedbizopps.gov.

* * * * *

PART 4—ADMINISTRATIVE MATTERS

4.502 [Amended]

3.–4. Amend section 4.502 in paragraph (b)(4) by adding the word ''single'' after the word ''a'' the first time it is used; and by removing ''single,'' which precedes ''Governmentwide''.

5. Amend section 4.803 by revising paragraph (a)(4) to read as follows:

4.803 Contents of contract files.

* * * * *

(a) * * *

(4) Synopsis of proposed acquisition as required by part 5 or a reference to the synopsis.

* * * * *

PART 5—PUBLICIZING CONTRACT ACTIONS

6. Add section 5.003 to read as follows:

5.003 Governmentwide point of entry.

For any requirement in the FAR to publish a notice, the contracting officer may transmit the notice to the Commerce Business Daily (CBD) if the contracting office lacks the capability to access the Governmentwide point of entry (GPE) and the notice is issued prior to October 1, 2001. Effective October 1, 2001, the contracting officer must transmit all notices to the GPE.

7. Amend section 5.101 by removing the introductory paragraph and revising paragraph (a) to read as follows:

5.101 Methods of disseminating information.

(a) As required by the Small Business Act (15 U.S.C. 637(e)) and the Office of Federal Procurement Policy Act (41 U.S.C. 416), contracting officers must disseminate information on proposed contract actions as follows:

(1) For proposed contract actions expected to exceed $25,000, by synopsizing in the GPE (see 5.201), unless covered by 5.003.

(2) For proposed contract actions expected to exceed $10,000, but not expected to exceed $25,000, by displaying in a public place, or by any appropriate electronic means, an unclassified notice of the solicitation or a copy of the solicitation satisfying the requirements of 5.207(d) and (g). The notice must include a statement that all responsible sources may submit a response which, if timely received, must be considered by the agency. The information must be posted not later than the date the solicitation is issued, and must remain posted for at least 10 days or until after quotations have been opened, whichever is later.

(i) If solicitations are posted instead of a notice, the contracting officer may employ various methods of satisfying the requirements of 5.207(d) and (g). For example, the contracting officer may meet the requirements of 5.207(d) and (g) by stamping the solicitation, by a cover sheet to the solicitation, or by placing a general statement in the display room.

(ii) The contracting officer need not comply with the display requirements of this section when the exemptions at 5.202(a)(1), (a)(4) through (a)(9), or (a)(11) apply, when oral or Federal Acquisition Computer Network (FACNET) solicitations are used, or when providing access to a notice of proposed contract action and solicitation through the GPE and the notice permits the public to respond to the solicitation electronically.

(iii) Contracting officers may use electronic posting of requirements in a place accessible by the general public at the Government installation to satisfy the public display requirement. Contracting offices using electronic systems for public posting that are not accessible outside the installation must periodically publicize the methods for accessing the information.

* * * * *

8. Revise section 5.102 to read as follows:

5.102 Availability of solicitations.

(a)(1) Except as provided in paragraph (a)(4) of this section, the contracting

officer must make available through the GPE solicitations synopsized through the GPE, including specifications and other pertinent information determined necessary by the contracting officer. Transmissions to the GPE must be in accordance with the interface description available via the Internet at http://www.fedbizopps.gov.

(2) The contracting officer is encouraged, when practicable and cost-effective, to make accessible through the GPE additional information related to a solicitation.

(3) The contracting officer must ensure that solicitations transmitted to FACNET are forwarded to the GPE to satisfy the requirements of paragraph (a)(1) of this section.

(4) The contracting officer need not make a solicitation available through the GPE when—

(i) Disclosure would compromise the national security (*e.g.*, would result in disclosure of classified information) or create other security risks. The fact that access to classified matter may be necessary to submit a proposal or perform the contract does not, in itself, justify use of this exception;

(ii) The nature of the file (*e.g.*, size, format) does not make it cost-effective or practicable for contracting officers to provide access through the GPE;

(iii) The agency's senior procurement executive makes a written determination that access through the GPE is not in the Government's interest; or

(iv) The contracting office lacks the capability to access the GPE and the synopsis is issued prior to October 1, 2001.

(b) When the contracting officer does not make a solicitation available through the GPE pursuant to paragraph (a)(4) of this section, the contracting officer—

(1) Should employ other electronic means (*e.g.*, CD–ROM or electronic mail) whenever practicable and cost-effective. When solicitations are provided electronically on physical media (*e.g.*, disks) or in paper form, the contracting officer must—

(i) Maintain a reasonable number of copies of solicitations, including specifications and other pertinent information determined necessary by the contracting officer (upon request, potential sources not initially solicited should be mailed or provided copies of solicitations, if available);

(ii) Provide copies on a ''first-come-first-served'' basis, for pickup at the contracting office, to publishers, trade associations, information services, and other members of the public having a legitimate interest (for construction, see 36.211); and

(iii) Retain a copy of the solicitation and other documents for review by and duplication for those requesting copies after the initial number of copies is exhausted; and

(2) May require payment of a fee, not exceeding the actual cost of duplication, for a copy of the solicitation document.

(c) In addition to the methods of disseminating proposed contract information in 5.101(a) and (b), provide, upon request to small business concerns, as required by 15 U.S.C. 637(b)—

(1) A copy of the solicitation and specifications. In the case of solicitations disseminated by electronic data interchange, solicitations may be furnished directly to the electronic address of the small business concern;

(2) The name and telephone number of an employee of the contracting office who will answer questions on the solicitation; and

(3) Adequate citations to each applicable major Federal law or agency rule with which small business concerns must comply in performing the contract.

(d) When electronic commerce (see subpart 4.5) is used in the solicitation process, availability of the solicitation may be limited to the electronic medium.

(e) Provide copies of a solicitation issued under other than full and open competition to firms requesting copies that were not initially solicited, but only after advising the requester of the determination to limit the solicitation to a specified firm or firms as authorized under part 6.

(f) This section 5.102 applies to classified contracts to the extent consistent with agency security requirements (see 5.202(a)(1)).

9. Revise section 5.201 to read as follows:

5.201 General.

(a) As required by the Small Business Act (15 U.S.C. 637(e)) and the Office of Federal Procurement Policy Act (41 U.S.C. 416), agencies must make notices of proposed contract actions available as specified in paragraph (b) of this section.

(b)(1) For acquisitions of supplies and services, other than those covered by the exceptions in 5.202 and the special situations in 5.205, the contracting officer must transmit a notice to the GPE, for each proposed—

(i) Contract action meeting the threshold in 5.101(a)(1);

(ii) Modification to an existing contract for additional supplies or services that meets the threshold in 5.101(a)(1); or

(iii) Contract action in any amount when advantageous to the Government.

(2) When transmitting notices to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the CBD.

(3) When transmitting notices to FACNET, contracting officers must ensure the notice is forwarded to the GPE. For notices published before January 1, 2002, contracting officers must ensure that the notices are forwarded by the GPE to the CBD.

(c) The primary purposes of the notice are to improve small business access to acquisition information and enhance competition by identifying contracting and subcontracting opportunities.

(d)(1) The GPE may be accessed via the Internet at http://www.fedbizopps.gov.

(2) Subscriptions to the CBD must be placed with the Superintendent of Documents, Government Printing Office, Washington, DC 20402, Telephone (202) 512–1800.

10. Amend section 5.202 by revising paragraph (a)(13)(ii) to read as follows:

5.202 Exceptions.

* * * * *

(a) * * *

(13) * * *

(ii) Will be made through a means that provides access to the notice of proposed contract action through the GPE; and

* * * * *

11. Amend section 5.203 by revising the introductory text, paragraphs (a), (b), (e), the first sentence of paragraph (g), and paragraph (h) to read as follows:

5.203 Publicizing and response time.

Whenever agencies are required to publicize notice of proposed contract actions under 5.201, they must proceed as follows:

(a) An agency must transmit a notice of proposed contract action to the GPE (see 5.201). All publicizing and response times are calculated based on the date of publication. For notices published before January 1, 2002, the publication date is the date the notice is published in the CBD. For notices published on or after January 1, 2002, the publication date is the date the notice appears on the GPE. The notice must be published at least 15 days before issuance of a solicitation except that, for acquisitions of commercial items, the contracting officer may—

(1) Establish a shorter period for issuance of the solicitation; or

(2) Use the combined synopsis and solicitation procedure (see 12.603).

(b) The contracting officer must establish a solicitation response time that will afford potential offerors a reasonable opportunity to respond to each proposed contract action, (including actions via FACNET or for which the notice of proposed contract action and solicitation information is accessible through the GPE), in an amount estimated to be greater than $25,000, but not greater than the simplified acquisition threshold; or each contract action for the acquisition of commercial items in an amount estimated to be greater than $25,000. The contracting officer should consider the circumstances of the individual acquisition, such as the complexity, commerciality, availability, and urgency, when establishing the solicitation response time.

* * * * *

(e) Agencies must allow at least a 45-day response time for receipt of bids or proposals from the date of publication of the notice required in 5.201 for proposed contract actions categorized as research and development if the proposed contract action is expected to exceed the simplified acquisition threshold.

* * * * *

(g) Contracting officers may, unless they have evidence to the contrary, presume that notice has been published 10 days (6 days if electronically transmitted through the GPE or other means) following transmittal of the synopsis to the CBD.

* * * * *

(h) In addition to other requirements set forth in this section, for acquisitions subject to NAFTA or the Trade Agreements Act (see subpart 25.4), the period of time between publication of the synopsis notice and receipt of offers must be no less than 40 days. However, if the acquisition falls within a general category identified in an annual forecast, the availability of which is published, the contracting officer may reduce this time period to as few as 10 days.

12. Revise section 5.204 to read as follows:

5.204 Presolicitation notices.

Contracting officers must provide access to presolicitation notices through the GPE (see 15.201 and 36.213–2). The contracting officer must synopsize a proposed contract action before issuing any resulting solicitation (see 5.201 and 5.203).

13. Revise section 5.205 to read as follows:

5.205 Special situations.

(a) *Research and development (R&D) advance notices.* Contracting officers may transmit to the GPE advance notices of their interest in potential R&D programs whenever market research does not produce a sufficient number of concerns to obtain adequate competition. Advance notices must not be used where security considerations prohibit such publication. Advance notices will enable potential sources to learn of R&D programs and provide these sources with an opportunity to submit information which will permit evaluation of their capabilities. Potential sources which respond to advance notices must be added to the appropriate solicitation mailing list for subsequent solicitation. Advance notices must be entitled ''Research and Development Sources Sought,'' cite the appropriate Numbered Note, and include the name and telephone number of the contracting officer or other contracting activity official from whom technical details of the project can be obtained. This will enable sources to submit information for evaluation of their R&D capabilities. Contracting officers must synopsize (see 5.201) all subsequent solicitations for R&D contracts, including those resulting from a previously synopsized advance notice, unless one of the exceptions in 5.202 applies.

(b) *Federally Funded Research and Development Centers.* Before establishing a Federally Funded Research and Development Center (FFRDC) (see Part 35) or before changing its basic purpose and mission, the sponsor must transmit at least three notices over a 90-day period to the GPE and the **Federal Register**, indicating the agency's intention to sponsor an FFRDC or change the basic purpose and mission of an FFRDC. The notice must indicate the scope and nature of the effort to be performed and request comments. Notice is not required where the action is required by law. When transmitting notices to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the CBD.

(c) *Special notices.* Contracting officers may transmit to the GPE special notices of procurement matters such as business fairs, long-range procurement estimates, prebid or preproposal conferences, meetings, and the availability of draft solicitations or draft specifications for review.

(d) *Architect-engineering services.* Contracting officers must publish notices of intent to contract for architect-engineering services as follows:

(1) Except when exempted by 5.202, contracting officers must transmit to the GPE a synopsis of each proposed contract action for which the total fee (including phases and options) is expected to exceed $25,000. When transmitting notices to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the CBD. The notice must reference the appropriate CBD Numbered Note.

(2) When the total fee is expected to exceed $10,000 but not exceed $25,000, the contracting officer must comply with 5.101(a)(2). When the proposed contract action is not required to be synopsized under paragraph (d)(1) of this section, the contracting officer must display a notice of the solicitation or a copy of the solicitation in a public place at the contracting office. Other optional publicizing methods are authorized in accordance with 5.101(b).

(e) *Effort to locate commercial sources under OMB Circular A–76.* When determining the availability of commercial sources under the procedures prescribed in subpart 7.3 and OMB Circular A–76, the contracting officer must not arrive at a conclusion that there are no commercial sources capable of providing the required supplies or services until publicizing the requirement through the GPE at least three times in a 90 calendar-day period, with a minimum of 30 calendar days between notices. When necessary to meet an urgent requirement, this may be limited to a total of two notices through the GPE in a 30 calendar-day period, with a minimum of 15 calendar days between each. When transmitting notices to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the CBD.

(f) *Section 8(a) competitive acquisition.* When a national buy requirement is being considered for competitive acquisition limited to eligible 8(a) concerns under subpart 19.8, the contracting officer must transmit a synopsis of the proposed contract action to the GPE. When transmitting notices to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the CBD. The synopsis may be transmitted to the GPE concurrent with submission of the agency offering (see 19.804–2) to the Small Business Administration (SBA). The synopsis should also include information—

(1) Advising that the acquisition is being offered for competition limited to eligible 8(a) concerns;

(2) Specifying the North American Industry Classification System (NAICS) code;

(3) Advising that eligibility to participate may be restricted to firms in either the developmental stage or the developmental and transitional stages; and

(4) Encouraging interested 8(a) firms to request a copy of the solicitation as expeditiously as possible since the solicitation will be issued without further notice upon SBA acceptance of the requirement for the section 8(a) program.

14. Amend section 5.206 by revising the introductory text of paragraph (a) to read as follows:

5.206 Notices of subcontracting opportunities.

(a) The following entities may transmit a notice to the GPE, the CBD, or both to seek competition for subcontracts, to increase participation by qualified HUBZone small business, small, small disadvantaged, and small women-owned business concerns, and to meet established subcontracting plan goals:

* * * * *

15. Amend section 5.207 by—

a. Redesignating paragraphs (a) through (h) as (b) through (i), respectively, and by adding a new paragraph (a);

b. Revising newly designated paragraph (b);

c. Revising the introductory text of newly designated paragraph (c), and adding under ''Format Item and Explanation/Description of Entry'' item numbers 18 and 19; and

d. Revising the newly designated paragraph (i). The revised text reads as follows:

5.207 Preparation and transmittal of synopses.

(a) *Content*. Each synopsis transmitted to the GPE or CBD must address the following data elements, as applicable:

(1) Action Code.

(2) Date.

(3) Year.

(4) Government Printing Office (GPO) Billing Account Code.

(5) Contracting Office Zip Code.

(6) Classification Code.

(7) Contracting Office Address.

(8) Subject.

(9) Proposed Solicitation Number.

(10) Opening and Closing Response Date.

(11) Contact Point or Contracting Officer.

(12) Contract Award and Solicitation Number.

(13) Contract Award Dollar Amount.

(14) Contract Line Item Number.

(15) Contract Award Date.

(16) Contractor.

(17) Description.

(18) Place of Contract Performance.

(19) Set-aside Status.

(b) *Transmittal*—(1) *GPE*. Transmissions must be in accordance with the interface description available via the Internet at http://www.fedbizopps.gov.

(2) *CBD*—(i) *Electronic transmission*. All synopses transmitted electronically to the CBD, other than through the GPE (see 5.003), must be in ASCII Code. Contact your agency's communications center for the appropriate transmission instructions or services.

(ii) *Hard copy transmission*. When electronic transmission is not feasible (see 5.003), synopses should be sent to the CBD via mail or other physical delivery of hard copy and should be addressed to the Commerce Business Daily, U.S. Department of Commerce, P.O. Box 77880, Washington, DC 20013-8880.

(c) *Format for the CBD*. The contracting officer must prepare the synopsis in the following style and format to assure timely processing of the synopsis by the Commerce Business Daily.

* * * * *

Format Item and Explanation/Description of Entry

* * * * *

18. PLACE OF CONTRACT PERFORMANCE. (Include where applicable; where not applicable, enter N/A.)

19. SET-ASIDES. (Identify if the proposed acquisition provides for a total or partial set-aside, a very small business set-aside, or a HUBZone small business set-aside. If not a set-aside, enter N/A.)

* * * * *

(i) *Cancellation of synopsis.* Contracting officers should not publish notices of solicitation cancellations (or indefinite suspensions) of proposed contract actions in the GPE or CBD. Cancellations of solicitations must be made in accordance with 14.209 and 14.404–1.

16. Amend section 5.301 by revising the introductory text of paragraph (a); by revising paragraphs (b)(7)(ii) and (c); and by adding paragraph (d) to read as follows:

5.301 General.

(a) Except for contract actions described in paragraph (b) of this section and as provided in 5.003, contracting officers must synopsize through the GPE awards exceeding $25,000 that are—

* * * * *

(b) * * *

(7) * * *

(ii) Was made through a means where access to the notice of proposed contract action was provided through the GPE; and

* * * * *

(c) With respect to acquisitions subject to the Trade Agreements Act, contracting officers must submit synopses in sufficient time to permit publication in the CBD, through the GPE, not later than 60 days after award.

(d) When transmitting notices to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the CBD.

17. Amend section 5.404–1 by revising paragraph (b)(3)(iii) to read as follows:

5.404–1 Release procedures.

* * * * *

(b) * * *

(3) * * *

(iii) More specific information relating to any individual item or class of items will not be furnished until the proposed action is synopsized through the GPE or the solicitation is issued;

* * * * *

18. Revise section 5.404–2 to read as follows:

5.404–2 Announcements of long-range acquisition estimates.

Further publicizing, consistent with the needs of the individual case, may be accomplished by announcing through the GPE that long-range acquisition estimates have been published and are obtainable, upon request, from the contracting officer.

PART 6—COMPETITION REQUIREMENTS

6.303–2 [Amended]

19. Amend section 6.303–2 in paragraph (a)(6) by removing ''CBD''.

PART 7—ACQUISITION PLANNING

20. Amend section 7.303 in paragraph (a) and the introductory text of paragraph (b) by removing ''shall'' and adding ''must'' in their place; and by revising paragraph (b)(1) to read as follows:

7.303 Determining availability of private commercial sources.

* * * * *

(b) * * *

(1) Synopsizing the requirement through the Governmentwide point of

entry (GPE) in accordance with 5.205(e) until a reasonable number of potential sources are identified. If necessary, a synopsis must be submitted up to three times in a 90-day period with a minimum of 30 days between notices (but, when necessary to meet an urgent requirement, this notification may be limited to a total of two notices in a 30-day period with a minimum of 15 days between them); and

* * * * *

PART 9—CONTRACTOR QUALIFICATIONS

21. Amend section 9.204 in the introductory text of paragraph (a) by removing ''shall'' and adding ''must'' in its place; and by revising paragraph (a)(1) to read as follows:

9.204 Responsibilities for establishment of a qualification requirement.

* * * * *

(a) * * *

(1) Periodically furnish through the Governmentwide point of entry (GPE) a notice seeking additional sources or products for qualification unless the contracting officer determines that such publication would compromise the national security. When transmitting notices to the GPE, contracting officers must direct the GPE to forward the notice to the Commerce Business Daily (CBD) to satisfy the requirements of 10 U.S.C. 2319(d)(1)(A) and 41 U.S.C. 253c(d)(1)(A).

* * * * *

22. Amend section 9.205 by revising the introductory text of paragraph (a) to read as follows:

9.205 Opportunity for qualification before award.

(a) If an agency determines that a qualification requirement is necessary, the agency activity responsible for establishing the requirement must urge manufacturers and other potential sources to demonstrate their ability to meet the standards specified for qualification and, when possible, give sufficient time to arrange for qualification before award. The responsible agency activity must, before establishing any qualification requirement, furnish notice through the GPE. When transmitting notices to the GPE, contracting officers must direct the GPE to forward the notice to the CBD to satisfy the requirements of 10 U.S.C. 2319(d)(1)(A) and 41 U.S.C. 253c(d)(1)(A). The notice must include—

* * * * *

PART 12—ACQUISITION OF COMMERCIAL ITEMS

23. Amend section 12.603 by revising paragraphs (a), (c)(2)(xv), (c)(3), and (c)(4) to read as follows:

12.603 Streamlined solicitation for commercial items.

(a) When a written solicitation will be issued, the contracting officer may use the following procedure to reduce the time required to solicit and award contracts for the acquisition of commercial items. This procedure combines the synopsis required by 5.203 and the issuance of the solicitation into a single document. Section 5.207 limits descriptions in the CBD to 12,000 textual characters (approximately 3½ single-spaced pages).

* * * * *

(c) * * *

(2) * * *

(xv) A statement regarding any applicable Numbered Notes.

* * * * *

(3) Allow response time for receipt of offers as follows:

(i) Because the synopsis and solicitation are contained in a single document, it is not necessary to publicize a separate synopsis 15 days before the issuance of the solicitation.

(ii) When using the combined synopsis and solicitation, contracting officers must establish a response time in accordance with 5.203(b) (but see 5.203(h)).

(4) Publicize amendments to solicitations in the same manner as the initial synopsis and solicitation.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

24. Amend the introductory paragraph of section 13.104 and the introductory text of paragraph (a) by removing ''shall'' and adding ''must'' in their place; and revise the first sentence of paragraph (b) to read as follows:

13.104 Promoting competition.

* * * * *

(b) If using simplified acquisition procedures and neither using FACNET nor providing access to the notice of proposed contract action and solicitation information through the Governmentwide point of entry (GPE), maximum practicable competition ordinarily can be obtained by soliciting quotations or offers from sources within the local trade area.* * *

13.105 [Amended]

25. Amend section 13.105 in the introductory text of paragraph (a) by removing ''shall'' and adding ''must'' in its place; in paragraph (a)(1)(ii) by removing ''single, Governmentwide point of entry'' and adding ''GPE'' in its place; in the first sentence of paragraph (b) by removing ''synopsis/solicitation'' and ''adding synopsis and solicitation'' in its place; and in the second sentence by removing ''such'' and adding ''these'' in its place.

PART 14—SEALED BIDDING

26. Revise section 14.203–2 to read as follows:

14.203–2 Dissemination of information concerning invitations for bids.

(a) Procedures concerning display of invitations for bids in a public place, information releases to newspapers and trade journals, paid advertisements, and synopsizing through the Governmentwide point of entry (GPE) are set forth in 5.101 and Subpart 5.2.

(b) For procedures that apply to publicizing notices through the GPE to determine whether commercial sources are available, as prescribed by OMB Circular A–76, see 5.205(e) and 7.303(b).

27. Amend section 14.503–2 by revising paragraphs (a)(4) and (b) to read as follows:

14.503–2 Step two.

(a) * * *

(4) Not be synopsized through the Governmentwide point of entry (GPE) as an acquisition opportunity nor publicly posted (see 5.101(a)).

(b) The names of firms that submitted acceptable proposals in step one will be listed through the GPE for the benefit of prospective subcontractors (see 5.207(b)(1)).

PART 19—SMALL BUSINESS PROGRAMS

28. Amend section 19.202–2 by revising paragraph (c) to read as follows:

19.202–2 Locating small business sources.

* * * * *

(c) Publicize solicitations and contract awards through the Governmentwide point of entry (see subparts 5.2 and 5.3).

29. Amend section 19.804–2—

a. In the first sentence of the introductory text of paragraph (a) by removing ''shall'' and adding ''must'' in its place;

b. In paragraph (a)(9) by removing ''in'' and ''Commerce Business Daily'' and adding ''through'' and ''Governmentwide point of entry (GPE)'' in their places, respectively; and

c. By revising the third and fourth sentences of paragraph (c) to read as follows:

19.804–2 Agency offering.

* * * * *

(c) * * * All requirements, including construction, must be synopsized through the GPE. For construction, the synopsis must include the geographical area of the competition set forth in the SBA's acceptance letter.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

30. Amend section 22.1009–4 in paragraph (a) by removing ''shall'' and adding ''must'' in its place; and by revising the introductory text of paragraph (b) to read as follows:

22.1009–4 All possible places of performance not identified.

* * * * *

(b) Include the following information in the notice of contract action (see 5.207(g)(4)):

* * * * *

PART 34—MAJOR SYSTEM ACQUISITION

34.005–2 [Amended]

31. Amend section 34.005–2 in paragraph (a)(1) by removing ''publication in the Commerce Business Daily'' and adding ''publicizing through the Governmentwide point of entry'' in its place.

PART 35—RESEARCH AND DEVELOPMENT CONTRACTING

32. Amend section 35.004 in the introductory text of paragraph (a) by removing ''shall'' and adding ''must'' in its place; and by revising paragraph (a)(1) to read as follows:

35.004 Publicizing requirements and expanding research and development sources.

(a) * * *

(1) Early identification and publication of agency R&D needs and requirements, including publicizing through the Governmentwide point of entry (GPE) (see part 5);

* * * * *

33. Amend section 35.016 by revising paragraph (c) to read as follows:

35.016 Broad agency announcement.

* * * * *

(c) The availability of the BAA must be publicized through the Governmentwide point of entry (GPE) and, if authorized pursuant to subpart 5.5, may also be published in noted scientific, technical, or engineering periodicals. The notice must be published no less frequently than annually. When transmitting a notice to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the Commerce Business Daily.

* * * * *

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

34. Amend section 36.213–2 in the introductory text of paragraph (b) by removing ''shall'' and adding ''must'' in its place; and by revising paragraph (b)(9) to read as follows:

36.213–2 Presolicitation notices.

* * * * *

(b) * * *

(9) Be publicized through the Governmentwide point of entry in accordance with 5.204.

[FR Doc. 01–12244 Filed 5–15–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 17, 22, and 36

[FAC 97–26; FAR Case 2001–016; Item II]

RIN 9000–AJ14

Federal Acquisition Regulation; Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects, which prohibits including requirements for affiliation with a labor organization as a condition for award of any contract or subcontract for construction or construction management services.

DATES: *Effective Date:* May 16, 2001.

Applicability Date: This rule applies to contracts awarded after February 17, 2001.

Comment Date: Interested parties must submit comments to the FAR Secretariat at the address shown below on or before July 16, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.2001–016@gsa.gov.

Please submit comments only and cite FAC 97–26, FAR case 2001–016 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAC 97–26, FAR case 2001–016.

SUPPLEMENTARY INFORMATION:

A. Background

On February 17, 2001, President George W. Bush signed E.O. 13202 revoking E.O. 12836 of February 1, 1993, and Presidential Memorandum of June 5, 1997, entitled ''Use of Project Labor Agreements for Federal Construction Projects.'' The E.O. was published in the **Federal Register** at 66 FR 11225, February 22, 2001, and amended by E.O. 13208 published in the **Federal Register** at 66 FR 18717, April 11, 2001. The E.O. 13202 is intended to improve the internal management of the Executive branch by—

- Promoting and ensuring open competition on Federal and federally funded or assisted construction projects;
- Maintaining Government neutrality towards Government contractors' labor relations on Federal and federally funded or assisted construction projects;
- Reducing construction costs to the Government and to the taxpayers;
- Expanding job opportunities, especially for small and disadvantaged businesses;
- Preventing discrimination against Government contractors or their employees based upon labor affiliation or lack thereof, thereby promoting the economical, nondiscriminatory, and efficient administration and completion of Federal and federally funded or assisted construction projects; and

• Preventing the inefficiency that may result from the disruption of a previously established contractual relationship in particular cases.

The interim rule amends the FAR to provide language in Part 36 on the new E.O. The E.O. provides that agencies may not require or prohibit offerors, contractors, or subcontractors from entering into or adhering to agreements with one or more labor organizations. It also permits agency heads to exempt a project from the requirements of the E.O. under special circumstances, but the exemption may not be related to the possibility of or an actual labor dispute. The amended E.O. also allows for exemption of a project governed by a project labor agreement in place as of February 17, 2001, which had a construction contract awarded as of February 17, 2001.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration believe that this interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule will assist in expanding job opportunities for small and small disadvantaged businesses in Federal and federally funded construction projects. Therefore, we have prepared an Initial Regulatory Flexibility Analysis that is summarized as follows:

The rule amends FAR Parts 17, 22, and 36 to implement Executive Order 13202 that requires that any construction contract awarded after February 17, 2001, or any obligation of funds pursuant to such contract, must not require or prohibit offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations on the same or other related construction project(s); or otherwise discriminate against offerors, contractors, or subcontractors for becoming or refusing to become or remaining signatories or otherwise adhering to agreements with one or more organizations, on the same or other related construction projects. The rule will apply to all large and small entities that seek Federal construction contracts. The rule should have a positive economic impact on those small businesses that are not union shops, and that want to bid on Federal construction contracts, because it may provide additional opportunities for work on Federal construction projects by non-union small businesses.

We invite comments from small businesses and other interested parties. We will consider comments from small entities concerning the affected FAR Parts in accordance with 5 U.S.C. 610. Small entities must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97–26, FAR Case 2001–016), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim rule does not impose or remove information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to implement Executive Order (E.O.) 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects, dated February 17, 2001. Section 7 of the E.O. directed that, within 60 days of the E.O. the Federal Acquisition Regulations Council amend the FAR to implement the provisions of the E.O. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 17, 22, and 36

Government procurement.

Dated: May 10, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 17, 22, and 36 as set forth below:

1. The authority citation for 48 CFR parts 17, 22, and 36 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 17—SPECIAL CONTRACTING METHODS

2. Amend section 17.603 by adding paragraph (c) to read as follows:

17.603 Limitations.

* * * * *

(c) For use of project labor agreements, see 36.202(d).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

3. Amend section 22.101–1 by removing the paragraph designation ''(b)'' and adding ''(b)(1)'' in its place, and adding a new paragraph (b)(2) to read as follows:

22.101–1 General.

* * * * *

(b)(1) * * *

(2) For use of project labor agreements, see 36.202(d).

* * * * *

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

4. Amend section 36.202 by adding paragraph (d) to read as follows:

36.202 Specifications.

* * * * *

(d) In accordance with Executive Order 13202, of February 17, 2001, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects, as amended on April 6, 2001—

(1) The Government, or any construction manager acting on behalf of the Government, must not—

(i) Require or prohibit offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations (as defined in 42 U.S.C. 2000e(d)) on the same or other related construction projects; or

(ii) Otherwise discriminate against offerors, contractors, or subcontractors for becoming, refusing to become, or remaining signatories or otherwise adhering to agreements with one or more labor organizations, on the same or other related construction projects.

(2) Nothing in this paragraph prohibits offerors, contractors, or subcontractors from voluntarily entering into project labor agreements.

(3) The head of the agency may exempt a construction project from this policy if the agency head finds that, as of February 17, 2001—

(i) The agency or a construction manager acting on behalf of the

Government had issued or was a party to bid specifications, project agreements, agreements with one or more labor organizations, or other controlling documents with respect to that particular project, which contained any of the requirements or prohibitions in paragraph (d)(1) of this section; and

(ii) One or more construction contracts subject to such requirements or prohibitions had been awarded.

(4) The head of the agency may exempt a particular project, contract, or subcontract from this policy upon a finding that special circumstances require an exemption in order to avert an imminent threat to public health or safety, or to serve the national security. A finding of ''special circumstances'' may not be based on the possibility or presence of a labor dispute concerning the use of contractors or subcontractors who are nonsignatories to, or otherwise do not adhere to, agreements with one or more labor organizations, or concerning employees on the project who are not members of or affiliated with a labor organization.

[FR Doc. 01–12245 Filed 5–15–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22 and 52

[FAC 97–26; FAR Case 2001–017; Item III]

RIN 9000–AJ13

Federal Acquisition Regulation; Executive Order 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts, signed by the President on February 17, 2001. The E.O. requires that any rules implementing E.O. 12933, Nondisplacement of Qualified Workers Under Certain Contracts, be promptly rescinded.

DATES: *Effective Date:* May 16, 2001.

Comment Date: Interested parties should submit comments to the FAR Secretariat at the address shown below on or before July 16, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.2001–017@gsa.gov

Please submit comments only and cite FAC 97–26, FAR case 2001–017 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Klein, Procurement Analyst, at (202) 501–3775. Please cite FAC 97–26, FAR case 2001–017.

SUPPLEMENTARY INFORMATION:

A. Background

Executive Order 12933 was signed October 20, 1994, by President Clinton and published in the **Federal Register** on October 24, 1994 (59 FR 53559). The E.O. required that building service contracts for public buildings include a clause requiring the contractor under a contract that succeeds a contract for performance of similar services at the same public building to offer certain employees under the predecessor contract, a right of first refusal to employment under the new contract. E.O. 12933 was implemented in the FAR as an interim rule in FAC 97–01 (62 FR 44823) dated August 22, 1997. The regulation was finalized with minor changes in FAC 97–11 (64 FR 10545) dated March 4, 1999. A further change was made in FAC 97–15 adding the clause to the commercial item clause list at 52.212–5 (64 FR 72450, December 27, 1999).

On February 17, 2001, President George W. Bush signed E.O. 13204 rescinding E.O. 12933 and calling for the prompt recession of any orders, rules, regulations, guidelines, or policies implementing or enforcing E.O. 12933, to the extent consistent with law. Contracting officers should not take any action on any complaint filed under former FAR Subpart 22.12.

Effective March 23, 2001, the Department of Labor rescinded its rule implementing E.O. 12933 (66 FR 16126, March 23, 2001).

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 51 U.S.C. 601, *et seq.*, because the rule merely removes requirements from the FAR that implemented regulations issued by the Department of Labor (DoL) for which DoL certified would not have a significant economic effect on a substantial number of small entities (62 FR 28175, May 22, 1997). This rule implements the requirements of E.O. 13204. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR Parts in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97–26, FAR case 2001–017), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to implement E.O. 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts, dated February 17, 2001. E.O. 13204 required the Federal Acquisition Regulatory Council to promptly rescind any orders, rules, regulations, guidelines, or policies implementing or enforcing E.O. 12933. However, pursuant to Public Law 98–577 and FAR 1.501, public comments

received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 22 and 52

Government procurement.

Dated: May 10, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 22 and 52 as set forth below:

1. The authority citation for 48 CFR parts 22 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 22.12 [Reserved]

2. Remove and reserve Subpart 22.12.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.212–5 [Amended]

3. Amend section 52.212–5 by revising the clause date to read May 2001; and by removing paragraph (c)(6).

52.222–50 [Reserved]

4. Remove and reserve section 52.222–50.

[FR Doc. 01–12246 Filed 5–15–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121). It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 97–26 which amend the FAR. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Interested parties may obtain further information regarding these rules by referring to FAC 97–26 which precedes this document. These documents are also available via the Internet at http://www.arnet.gov/far.

FOR FURTHER INFORMATION CONTACT: Laurie Duarte, FAR Secretariat, (202) 501–4225. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULES IN FAC 97–26

Item	Subject	FAR case	Analyst
I	*Electronic Commerce in Federal Procurement	1997–304	Moss.
II	*Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.	2001–016	Nelson.
III	Executive Order 13204, Revocation of Executive Order On Nondisplacement of Qualified Workers Under Certain Contracts.	2001–017	Klein.

Item I—Electronic Commerce in Federal Procurement (FAR Case 1997–304)

This interim rule amends the FAR to (a) further implement section 850 of the National Defense Authorization Act for Fiscal Year 1998, Pub. L. 105–85 (section 850) and (b) implement section 810 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398, section 810). Section 850 calls for the use of cost-effective procedures and processes that employ electronic commerce in the conduct and administration of Federal procurement systems. This includes the designation in the FAR of a single point of universal electronic public access to Governmentwide procurement opportunities (the ''Governmentwide Point of Entry'' or ''GPE''). Section 810 allows agencies to provide access to notices through the GPE, as designated in the FAR, instead of publishing them via the Commerce Business Daily (CBD).

This rule designates Federal Business Opportunities (''FedBizOpps'') as the GPE. Agencies have until October 1, 2001, to complete their transition to, or integration with, FedBizOpps. By that date, all agencies must use FedBizOpps to provide access to public notices of procurement actions over $25,000 that are currently required to be published in the CBD along with associated solicitations and amendments. In addition, agencies will not be required to provide notice in the CBD as of January 1, 2002, since access to this information will be provided via the Internet through FedBizOpps.

Item II—Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects (FAR Case 2001–016)

This interim rule amends the FAR to provide language in Part 36 and revises Subparts 17.6 and 22.1 to add cross-references to Part 36. The Executive order (E.O.) provides that agencies may not require or prohibit offerors, contractors, or subcontractors from entering into or adhering to agreements with one or more labor organizations. It also permits agency heads to exempt a project from the requirements of the E.O. under special circumstances but the exemption may not be related to the possibility of, or an actual labor dispute.

Item III—Executive Order 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts (FAR Case 2001–017)

This interim rule amends the FAR to remove Subpart 22.12, Nondisplacement of Qualified Workers Under Certain Contracts. Executive Order 12933, Nondisplacement of Qualified Workers Under Certain Contracts (October 20, 1994), required that building service contracts for public buildings include a clause requiring the contractor under a contract that succeeds a contract for performance of similar services at the same public building to offer certain employees under the predecessor contract, a right of first refusal to employment under the new contract. E.O. 12933 was implemented in the FAR in Subpart 22.12.

On February 17, 2001, President George W. Bush signed E.O. 13204 rescinding E.O. 12933 and calling for the prompt recession of any orders, rules, regulations, guidelines, or policies implementing or enforcing E.O. 12933, to the extent consistent with law. Contracting officers should not take any action on any complaint filed under former FAR Subpart 22.12.

Effective March 23, 2001, the Department of Labor rescinded its rule implementing E.O. 12933 (66 FR 16126, March 23, 2001).

Dated: May 10, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–12247 Filed 5–15–01; 8:45 am]

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Federal Register

Wednesday,
May 16, 2001

Part VII

Department of Education

Arts in Education Model Development and Dissemination Grant Program; Notice Inviting Applications for New Grant Awards for Fiscal Year 2001 Funds

DEPARTMENT OF EDUCATION

[CFDA No. 84.351D]

Arts in Education Model Development and Dissemination Grant Program; Notice Inviting Applications for New Grant Awards for Fiscal Year (FY) 2001 Funds

Note to Applicants: This notice is a complete application package. Together with the statute authorizing these grants and the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for an Arts in Education Model Development and Dissemination Grant Program under this competition. This grant program is authorized by 20 U.S.C. 8091.

Purpose of Program: The Arts in Education Model Development and Dissemination Grant Program will support the development, documentation, evaluation, and dissemination of innovative, cohesive models that have demonstrated effectiveness in effectively (1) integratinge arts into the core elementary and middle school curricula, (2) strengthening arts instruction in these grades, and (3) improving students' academic performance, including their skills in creating, performing, and responding to the arts.

Eligible Applicants: (1) One or more local educational agencies (LEAs), that may work in partnership with one or more of the following:

State or local non-profit or governmental arts organization;

State educational agencies or regional educational service agencies;

Institutions of higher education; and/or

Other public and private agencies, institutions, and organizations with expertise in the arts.

(2) One or more state or local non-profit or governmental arts organizations that must work in partnership with one or more LEAs and may partner with one or more of the following:

State educational agencies or regional educational service agencies;

Institutions of higher education; and/or

Other public and private agencies, institutions, and organizations with expertise in the arts.

Note: If more than one LEA and/or arts organization wish to form a consortia and jointly submit a single application, they must follow the procedures for group applications described in 34 CFR 75.127–129 of EDGAR.

E-Mail Notification of Intent to Apply for Funding: The Department will be able to develop a more efficient process for reviewing grant applications if it has an estimate of the number of entities that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify the Department with a short e-mail noting the intent to submit an application for funding. The e-mail need not include information regarding the content of the proposed application, only the applicant's intent to submit. The Secretary requests that this e-mail notification be sent no later than June 15, 2001. The e-mail notification should be sent to: artsdemos@ed.gov.

Applicants that fail to provide this e-mail notification may still apply for funding.

Deadline for Transmittal of Applications: July 16, 2001.

Deadline for Intergovernmental Review: September 13, 2001.

Estimated Available Funds: $10,000,000.

Estimated Range of Awards: $350,000–$1,000,000 (total for the project period).

Project Period: Up to 36 months.

Applicants for multi-year awards are required to provide detailed budget information for the total grant period requested. The Secretary will determine at the time of the initial award the funding levels for each year of the grant award. The Department of Education is not bound by any estimates in this notice.

Note: To provide the applicant with the capacity to effectively plan for and carry out the comprehensive long-term activities involved in model development, documentation, evaluation, and dissemination the Secretary anticipates awarding the entire grant amount for the project at the time of the initial award.

Page Limits: Applicants are strongly encouraged to limit the application narrative to no more than 30 double-spaced pages. The following standards are preferred: (1) A ''page'' is 8.5″ x 11″ (one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative must be double spaced. The page limit does not apply to the cover sheet, the one-page abstract, budget section, appendices, and forms and assurances. However, all of the application narrative must be included in the narrative section.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99.

SUPPLEMENTARY INFORMATION: While many schools and districts have moved swiftly in recent years to reform and enhance traditional core academic programs, most have not made similar efforts to integrate arts effectively into the regular curriculum, either as vehicle by which to strengthen other core academic subjects or as an academic discipline in its own right. High-quality programs effectively integrating and improving arts instruction are increasingly important as students face the demands of the information age in the 21st century. Creating, performing, and responding to works of art build creativity, self-confidence, and critical thinking skills '' qualities central to success in school, work, and life.

For several reasons, high-quality arts and art education programs have implications for students' other academic development. First, most educators agree that arts-rich education programs keep students engaged and interested in school. For example, James Catterall's work suggests that students who participate in arts programs, especially students identified as at-risk of educational failure, are less likely to drop out of school (See Catterall, *et al.* in *Champions of Change* at: *http://artsedge.kennedy-center.org/champions).* Additionally, research studies suggest that involvement in arts-rich schooling affects students' success in other academic areas (See also Burton, *et al.* in *Champions*). In a study reanalyzing the cross-sectional National Educational Longitudinal Survey (NELS) data, for example, Catterall found that students in learning environments with diverse, high-quality arts education offerings had higher achievement than students in arts-poor communities, even when controlling for students' socioeconomic background. Sustained involvement in particular arts disciplines, like music and theater, seemed to be highly correlated with success in traditional academic subjects like math and reading. These studies have also found that improving the quality of arts education has a particularly positive impact on students from low-income backgrounds. Unfortunately, students from low socioeconomic backgrounds are almost twice as likely to attend arts-poor schools, while students from socio-economically advantaged backgrounds are twice as likely to attend arts-rich schools (Catterall, *et al.*)

To ensure that high expectations are held for all of America's students, it is critical to assess and develop high-quality, research-based models for effectively integrating arts into the regular school curricula, both as a core academic content area and as a means for strengthening other core academic

areas. The Arts in Education Model Development and Dissemination Grant Program seeks to redress the lack of information in this area by encouraging partnerships of arts and education specialists to develop and document effective models for improving arts education and student achievement ‘‘ particularly for students from poor and disadvantaged backgrounds. The Department of Education intends to disseminate the results of this program to other educational entities.

Program Description: The Arts in Education Model Development and Dissemination Grant Program is authorized under section 10401, Part D, Subpart 1 of Title X of the Elementary and Secondary Education Act. The Arts in Education Model Development and Dissemination Grant Program will further the development of innovative, cohesive models that have demonstrated effectiveness in integrating arts into the school curriculum. In this case, ‘‘integrating’’ should be understood both as strengthening the use of high-quality arts in the course of other academic instruction and strengthening the place of arts as a core academic subject in the regular school curricula.

These grants are designed to enable LEAs and organizations with art expertise to further develop and create materials for the replication or adaptation of current comprehensive approaches for integrating a range of arts disciplines—such as music, dance, theater, and visual arts, including folk arts in these fields—into the elementary and middle school curricula. Such development work should yield more systematic information about effective models that provide quality arts instruction and use the arts to enhance instruction in other core academic subjects. The goal of the Arts in Education Model Development and Dissemination Grant Program is to bring to the field additional models with a solid research base for effectively integrating the arts, in the same way that solid research bases have been developed for instruction in other fields, such as reading.

Under this program, applicants should propose projects that may include but are not limited to the following components:

Field testing and evaluating promising new educational strategies;

Field testing and evaluating model in-service and pre-service professional development programs;

Ensuring comprehensive coverage of the arts disciplines—such as visual arts, dance, music, theater, and the folk arts in these areas;

Developing partnerships among schools, arts organizations, and others with expertise in the arts to enhance the quality and sustainability of effective programming;

Creating materials documenting the implementation and achievement of the model program for other educators and agencies; and

Obtaining the services of outside experts to assist with program implementation, curriculum development, data collection, evaluation design or other appropriate activities.

This program seeks to increase the research base and provide communities with additional information regarding innovative, research-based models for effectively integrating and strengthening arts instruction and improving students' skills in creating, performing, and responding to works of arts, as well as achievement in other core academic subjects. In addition to any dissemination work in which the applicants choose to engage, the Department intends to take the products and information resulting from these demonstration grants and share them widely with other communities. Upon completion of the project, the Department requires that any materials or products developed as a part of model development activities be provided to the Department for further dissemination. Such activities will be carried out in full compliance with copyright requirements.

Application Content: To apply for Arts in Education Model Development and Dissemination funds, applicants must be prepared to: further the development of programs designed to improve or expand the integration of arts education in elementary or middle school curricula; develop materials designed to help replicate or adapt the program; document the program's results and benefits; and develop products and services that can be used to replicate the program in other settings. Thus, grant applications must describe an existing set of strategies for integrating the arts into the regular elementary and middle school curriculum which could successfully be implemented, expanded, documented, evaluated, and disseminated. Taken together, a research-based, comprehensive Arts in Education Model will:

Be based, to the extent possible, on the most rigorous theory, research, and evaluation available and effective in improving student achievement and performance and other program objectives.

Be linked to state and national standards enabling all students to meet challenging expectations, and improving student and school performance.

Have the potential to improve students' achievement both in creating, performing, and responding to works of art, and in other core academic subjects.

Highlight the development of model professional development for arts educators and other instructional staff.

Include multiple partners and effectively combine resources to create quality, sustainable programs.

Demonstrate the feasibility of further replication and dissemination.

Be applicable to a broad range of high poverty and disadvantaged, rural and urban schools, including those that are chronically low-performing.

Make effective use of technology to further the model's goals.

Describe methods by which the applicant will assess the model's outcomes.

Additionally, grant applicants should describe activities which, to the extent possible, coordinate model development with relevant activities of public and private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters. (20 U.S.C. 8091(e)(1))

Waiver of Proposed Rulemaking: In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, allows the Secretary to exempt from rulemaking requirements governing the first grant competition under a new or substantially revised program authority (20 U.S.C. 1232(d)(1)). Funding was provided for this new initiative in the fiscal year 2001 Department of Education Appropriations Act, enacted in December 2000. As this competition is the first under this program, it therefore qualifies for the exemption. The Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forego public comment in order to ensure timely grant awards.

Absolute Priority: The Secretary will only fund applications from LEAs or non-profit organizations which propose to work with at least one elementary and/or middle school with no less than 35% of its students from low-income families consistent with section 1113(b)(1)(A) of Title I of the Elementary and Secondary Education Act.

Competitive Priority: The Secretary will award five (5) points, in addition to

any points the applicant earns under the selection criteria, to projects proposing models that involve schools in rural or inner-city communities.

Invitational Priority: The Secretary strongly encourages applicants to bring together a partnership of educational and arts-based entities as well as other community resources to carry out activities designed under this program. Partnerships among these entities are important to ensure the quality of programming as well as the sustainability of the activities.

Definition: In addition to definitions in the statute and EDGAR, the following definition applies:

Research-based, when used with respect to an activity or a program, means that, to the extent possible, the activity or program is based on the most rigorous theory, research, and evaluation available and effective in improving student achievement and performance and other program objectives.

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for grants under this competition. In all instances where the word ''project'' appears in the selection criteria, the reference to an Arts in Education Model Development and Dissemination grant program should be made.

The maximum composite score for all of these criteria is 100 points. The maximum score an applicant may receive is 105 if they meet the competitive priority.

The maximum score for each criterion is indicated in parentheses. Within each criterion, the Secretary evaluates each factor equally.

(a) Need for project. (10 points)

In determining the need for the proposed project, the Secretary considers the following factors:

(i) The extent to which the model addresses specific needs of students at risk of educational failure.

(ii) The extent to which specific gaps, weaknesses, or opportunities have been identified in effectively integrating arts into the core curricula, strengthening arts instruction and improving students' academic performance, including skills in creating, performing and responding to the arts. Also, the nature and magnitude of those gaps or weaknesses and the degree to which they will be addressed by the proposed model.

(b) Significance. (20 points)

In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The potential contribution of the proposed project to increase knowledge and understanding of effective strategies for strengthening the use of high-quality arts in the course of other academic instruction and the place of arts as a core academic subject in the regular school curricula.

(ii) The likely utility and replicability of the proposed model and the extent to which its products (including information, materials, processes, or techniques) will be effective in a variety of settings.

(c) Quality of the project design. (30 points)

In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and results to be achieved over the proposed project period are clearly specified and measurable.

(ii) The extent to which the proposed model is based on reliable research, effective practice and/or coherent theory regarding means for strengthening the use of high-quality arts in the course of other academic instruction and the place of arts as a core academic subject in the regular school curricula.

(iii) The extent to which the proposed model aims to strengthen the academic performance of students in creating, performing, and responding to multiple arts disciplines and other core academic areas.

(iv) The extent to which the project will document and evaluate the success of the model and disseminate relevant information.

(d) Quality of the management plan. (10 points)

In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within a reasonable budget, including relevant contributions and commitments from partners, timelines, continuous improvement strategies and milestones for accomplishing project tasks.

(e) Quality of the project personnel. (5 points)

In determining the quality of the personnel plan for the proposed project, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience of key project personnel, major partners, project consultants and/or subcontractors and the extent to which personnel have clearly defined responsibilites.

(ii) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(f) Quality of the project evaluation. (25 points)

In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are rigorous, thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data on the results of the program.

(iii) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

If you are an applicant, you must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedures established in each State under the Executive Order.

If you want to know the name and address of any State Single Point of Contact (SPOC), you may view the latest SPOC list on the OMB Web site at the following address: http://www.whitehouse.gov/omb/grants/spoc.html.

In States that have not established a process or chosen a program for review, State, area-wide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, area-wide, regional, and local entities must be mailed or hand-delivered by the date

indicated in this notice to the following address: The Secretary, E.O. 12372–CFDA No. 84.351D, U.S. Department of Education, Room 7E200, 400 Maryland Avenue, SW., Washington, DC 20202–0125. Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Eastern Standard Time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant must—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA No. 84.351D), Washington, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Eastern Standard Time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA No. 84.351D), Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C. 20202.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. (2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494. (3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 3 of the Application for Federal Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this notice contains all required forms and instructions, including instructions for preparing the application narrative, a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act (GEPA), various assurances and certifications, a list of relevant definitions from the authorizing statute and EDGAR, and a checklist for applicants.

To apply for an award under this competition, your application must be organized in the following order and include the following four parts. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (ED 424, Exp. 06/30/2001) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions. An applicant for a multi-year project must provide a budget narrative that provides budget information for each budget period of the proposed project period.

Part III: Application Narrative.

Part IV: Assurances and Certifications: Assurances—Non-Construction Programs (Standard Form 424B).

b. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

c. Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

Note: ED Form 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

d. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions.

An applicant may submit information on photostatic copies of the application, budget forms, assurances, and certifications as printed in this notice in the **Federal Register**. However, the application form, assurances, and certifications must each have an original signature. All applicants are required to submit ONE original signed application, including ink signatures on all forms and assurances, and TWO copies of the application, one bound and one unbound copy suitable for photocopying. Please mark each application as ''original'' or ''copy''. To aid with the review of applications, the Department also encourages applicants to submit two additional paper copies of the application (five total). The Department will not penalize applicants who do not provide additional copies. No grant may be awarded unless a completed application form, including the signed assurances and certifications, has been received.

FOR FURTHER INFORMATION CONTACT: Margaret McNeely or Gillian Cohen, Arts in Education Model Development and Dissemination Program, Academic Improvement and Demonstration Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W312, FOB–6, Washington, DC 20202. Telephone: (202) 260–1335 (Margaret McNeely) or (202) 260–7813 (Gillian Cohen) E-mail: artsdemos@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following site: www.ed.gov/legislation/FEDRegister.

To use PDF you must have Adobe Acrobat Reader, which is available free at the previous site. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO) toll free at 1–888–293–6498, or in the Washington, DC area at 202–512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

Program Authority: 20 U.S.C. 8091.

Dated: May 10, 2001.

Thomas M. Corwin,

Acting Deputy Assistant Secretary for Elementary and Secondary Education.

Appendix—Instructions for the Application Narrative

The narrative is the section of the application where the selection criteria used by reviewers in evaluating the application are addressed. The narrative must encompass each function or activity for which funds are being requested. Before preparing the application narrative, an applicant should read carefully the description of the program and the selection criteria the Secretary uses to evaluate applications.

Applicants should note there is a suggested 30 page limit for the application narrative with the following standards applying: A ''page'' is 8.5″ x 11″ (one side only) with one-inch margins (top, bottom, and sides). All text in the application narrative must be double spaced. The suggested page limit does not apply to the cover sheet, the one-page abstract, budget section, appendices, and forms and assurances. However, all of the application narrative must be included in the narrative section.

Applicants are strongly encouraged to use the following format in developing applications:

1. Begin with a one-page Abstract summarizing the proposed Arts in Education Model Development and Dissemination project, including a description of project objectives and activities and any partners in the application. Also include a short description of the population to be served by the project.
2. Include a table of contents and be sure to number the pages.
3. Describe how the applicant meets the absolute priority and the competitive priority if necessary.
4. Describe fully the proposed project in light of the selection criteria in the order in which the criteria are listed in the application package. Do not simply paraphrase the criteria.
5. Provide the following in response to the attached ''Notice to all Applicants'': (1) a reference to the portion of the application in which information appears as to how the applicant is addressing steps to promote equitable access and participation, or (2) a separate statement that contains that information.
6. When applying for funds as a consortium, individual eligible applicants must enter into an agreement signed by all members. The consortium's agreement must detail the activities each member of the consortium plans to perform, and must bind each member to every statement and assurance made in the consortium's application. The designated applicant must submit the consortium's agreement with its application.
7. Applicants may include supporting documentation as appendices to the narrative. This material should be concise and pertinent to the competition. Note that the Secretary considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels. (34 CFR 75.217)
8. Attach copies of all required assurances and forms.

Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is 1810–NEW (Expiration Date: 05/31/2004). The time required to complete this information collection is estimated to average 60 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. *If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to:* Arts in Education Model Development Program, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W312 or 5C145, Washington, DC 20202–4651.

If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Arts in Education Model Development Program, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W312 or 5C145, Washington, DC 20202–4651.

Checklist for Applicants

The following forms and other items must be included in the application in the order listed below:

1. Application for Federal Assistance (ED 424).
2. Budget Information—Non-Construction Programs (ED Form No. 524) and budget narrative.
3. Application Narrative, including information that addresses section 427 of the General Education Provisions Act (see the section entitled ''Notice to All Applicants''), and relevant appendices.
4. Consortia agreement, if applicable.
5. Assurances—Non-Construction Programs (SF 242B).
6. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).
7. Disclosure of Lobbying Activities (Standard Form LLL).

BILLING CODE 4000–01–U

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address
   Legal Name:
   Address:
   City State County ZIP Code + 4

   Organizational Unit

2. Applicant's D-U-N-S Number
3. Applicant's T-I-N
4. Catalog of Federal Domestic Assistance #: 8 4 3 5 1 D → Title: Arts in Education Model Development and Dissemination Grant Program
5. Project Director:
   Address:
   City State ZIP Code + 4
   Tel. #: ( ) Fax #: ( )
   E-Mail Address:
6. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
   (If "Yes," attach an explanation.)
7. Type of Applicant *(Enter appropriate letter in the box.)*
   - A State
   - B County
   - C Municipal
   - D Township
   - E Interstate
   - F Intermunicipal
   - G Special District
   - H Independent School District
   - I Public College or University
   - J Private, Non-Profit College or University
   - K Indian Tribe
   - L Individual
   - M Private, Profit-Making Organization
   - N Other *(Specify)*:
8. Novice Applicant ☐ Yes ☐ No

Application Information

9. Type of Submission:
   - *—PreApplication*
     - ☐ Construction
     - ☐ Non-Construction
   - *—Application*
     - ☐ Construction
     - ☐ Non-Construction
10. Is application subject to review by Executive Order 12372 process?
    ☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/___
    ☐ No *(If "No," check appropriate box below.)*
    ☐ Program is not covered by E.O. 12372.
    ☐ Program has not been selected by State for review.
11. Proposed Project Dates: Start Date: ___/___/___ End Date: ___/___/___
12. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No
    a. If "Yes," Exemption(s) #:
    OR
    b. Assurance of Compliance #:
    c. IRB approval date: ☐ Full IRB **or** ☐ Expedited Review
13. Descriptive Title of Applicant's Project:

Estimated Funding

14a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.
    a. Typed Name of Authorized Representative
    b. Title
    c. Tel. #: ( ) Fax #: ( )
    d. E-Mail Address:
    e. **Signature of Authorized Representative** Date: ___/___/___

REV. 11/12/99

ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Tax Identification Number.** Enter the tax identification number as assigned by the Internal Revenue Service.

4. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

5. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

7. **Type of Applicant.** Enter the appropriate letter in the box provided.

8. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

9. **Type of Submission.** Self-explanatory.

10. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

11. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

12. **Human Subjects.** Check "Yes" **or** "No". If research activities involving human subjects are **not** planned **at any time** during the proposed project period, check **"No." The remaining parts of item 12 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are** planned **at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If **all** the research activities are designated to be exempt under the regulations, enter, in item 12a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 12a, are appropriate. **Provide this narrative information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 12.**

    If **some or all** of the planned research activities involving human subjects are covered (nonexempt), skip item 12a and continue with the remaining parts of item 12, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 12b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 12c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 12c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 12b and skip 12c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

13. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

14. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 14.

15. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH (Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 12 on the application "Yes" and designated exemptions in 12a, **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 12 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004

Expiration Date: 02/28/2003

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013 12/98

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** ☐ a. bid/offer/application b. initial award c. post-award	**3. Report Type:** ☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: ☐ **Prime** ☐ **Subawardee** Tier _____, *if known*: **Congressional District**, *if known*:	**5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:** **Congressional District**, *if known*:	
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____	
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $	
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013 12/98

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to**: U.S. Department of Education, Washington, DC 20202-4651.

[FR Doc. 01–12329 Filed 5–15–01; 8:45 am]
BILLING CODE 4000–01–C

Federal Register

Wednesday,
May 16, 2001

Part VIII

Department of State

Foreign Terrorist Organization Designation; Notice

DEPARTMENT OF STATE

[Public Notice 3671]

Office of the Coordinator for Counterterrorism; Designation of a Foreign Terrorist Organization

AGENCY: Department of State.

ACTION: Designation.

Pursuant to Section 219 of the Immigration and Nationality Act (''INA''), as added by the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104–132, section 302, 110 Stat. 1214, 1248 (1996), and amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104–208, 110 Stat. 3009 (1996), the Secretary of State hereby designates, effective May 16, 2001, the following organization as a foreign terrorist organization:

The ''Real IRA''

also known as the ''Real Irish Republican Army''

also known as ''RIRA''

also known as the ''32 County Sovereignty Committee''

also known as the ''32 County Sovereignty Movement''

also known as the ''Real Oglaigh na hEireann''

also known as the ''Irish Republican Prisoners Welfare Association''

Dated: May 11, 2001.

Edmund J. Hull,

Acting Coordinator for Counterterrorism, Department of State.

[FR Doc. 01–12612 Filed 5–15–01; 5:00 pm]

BILLING CODE 4710–10–P

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 256/P.L. 107–8

To extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (May 11, 2001; 115 Stat. 10)

Last List April 13, 2001

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